

Airtel

1 - Mr. Tierney

3/24/80

To: SAC, WFO Attention: Supervisor Sullivan, C-4

From: Director, FBI

U.S. VS. W. MARK FELT, ET AL.
DISCOVERY PROCEEDINGS

Reference is made to telephone conversation 3/24/80
between FBIHQ Supervisor Tierney and [redacted] of WFO.

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b7C

This confirms oral request for review of passport
file of [redacted] Passport Number [redacted].
Oral review should be furnished SA Tierney on extension 4763
and written passport review may be forwarded by routing slip
to FBIHQ, Room 4859, Telelift #224.

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JLT:tdp
(4)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

DATE 04-23-2009 BY 65179 dmh/baw/sbs

62-118045-265

MAR 31 1980

Hand delivered
to Supervisor Sullivan
3/24/80
SK

4-SK

62-118045

9 APR 9 1980

Greenberg/Gray-7108

Exec AD Adm.	_____
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Exec AD LES	_____
Asst. Dir.:	_____
Adm. Servs.	_____
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Tech. Servs.	_____
Training	_____
Public Affs. Off.	_____
Telephone Rm.	_____
Director's Sec'y	_____

2 FBI/DOJ

ALL INFORMATION CONTAINED
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 DATE 04-23-2009 BY 65179 dmh/baw/sbs

Exempted from automatic declassification

Authority derived from: FBI Automatic '12/80

~~SECRET~~

Declassification Guide

Exemption code 25X(6) Date 04-23-2009T DIVISION

U. S. vs. Felt, et al.

b1

(S) [redacted]
[redacted]
[redacted] information be made available to the defense in the U. S. vs. Felt, et al. matter. The response permits discovery disclosure to the defense subject to the constraints outlined in the Court's November, 1979, supplemental protective order.

This order inter alia prohibits disclosure beyond the defendants and counsel without additional court approval. It is anticipated the defense will seek approval to show the information to possible witnesses. John Nields, Special Prosecutor, advised the Department would resist any such attempted use of the information and would convey that position to the [redacted] (S) This is contrasted with the Department's position relative to other sensitive material produced pursuant to the protective order in question. That position has been to allow the defense to exhibit the information to individuals who previously had access to same without requiring the defense to seek additional court approval.

b1

1 - Mr. Boynton
1 - Mr. Colwell
1 - Mr. Steel
1 - Mr. Mullen

1 - Mr. Cregar
1 - Mr. Bailey
1 - Mr. Tierney
1 - Mr. Daly

All information contained herein is unclassified except where shown otherwise

PVD:mjl

Information classified per letter dated 8-14-2009

APPROVED:

Director

Exec. AD-Inv.

Exec. AD-Adm.

Exec. AD-LES

Adm. Serv.

Crim. Inv.

Ident.

Intell.

Lab.

Legal Coun.

Plan. & Insp.

Rec. Mgmt.

Tech. Servs.

Training

Off. Liaison

~~SECRET~~

-Greenberg/Gray-7110

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION*Memorandum*~~CONFIDENTIAL~~TO : Mr. Bailey *WJF*

FROM : Joseph L. Tierney

SUBJECT: U.S. VS. W. MARK FELT, ET AL. (U)

1 - Mr. Boynton

DATE: 3/6/80

1 - Mr. Colwell
 1 - Mr. Steel
 1 - Mr. Mintz
 1 - Mr. Mullen
 1 - Intelligence Div.
 1 - Mr. Bailey
 1 - Mr. Daly
 1 - Mr. Tierney

Exec AD Inv. ☒
 Exec AD Adm. ☒
 Exec AD LES ☒
 Asst. Dir.:
 Adm. Servs. ☒
 Crim. Inv. ☒
 Ident. ☒
 Intell. ☒
 Laboratory ☒
 Legal Coun. ☒
 Plan. & Insp. ☒
 Rec. Mgnt. ☒
 Tech. Servs. ☒
 Training ☒
 Public Affs. Off. ☒
 Telephone Rm. ☒
 Director's Sec'y ☒

PURPOSE:

To advise of planned trip to review certain files of New York Office by Francis J. Martin, Departmental Attorney. (U)

DETAILS:

On 3/5/80 Francis J. Martin asked that arrangements be made for him to review files in the New York Office (NYO).

Martin wants to review the NYO versions of People's Peace Treaty, National Lawyer's Guild, and People's Coalition for Peace and Justice. He is exhausting all possibilities in finding a replacement for a critical item of foreign involvement information which CIA refuses to allow to be used at trial. It appears to involve information received from a foreign government source. (U)

Martin also wants to review the beginning of the [] file. He is reviewing in detail the facts of several instances we uncovered and furnished during discovery in 1978 as samples of Departmental knowledge of the surreptitious entries technique. The [] case was one of these. They have recently noticed some confirmation of this knowledge in Departmental documents and are now pursuing the matter. (U)

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(U) Departmental Attorneys, including Martin, reviewed original files in New York during the early, investigative phase, although they have not done so recently. They are given access to all FBIHQ files, except informants and assets. Martin and John W. Nields, Jr., were recently designated by the Attorney General to have access to "SOLO" information, and were briefed by Intelligence Division on its background. (X)

DECLASSIFICATION AUTHORITY DERIVED FROM:
 FBI AUTOMATIC DECLASSIFICATION GUIDE
 DATE 04-23-2009

~~CONFIDENTIAL~~

Classified and Extended by 6080

Reason for Extension FCIM II, 1-2.4.2 (2,3)

Date of Review for Declassification 3/6/2000

22 MAR 31 1980

JLT:tdp

64 APR 9 1980

CONTINUED - OVER

Greenberg/Gray-7115

FBI/DOJ

~~CONFIDENTIAL~~

Memorandum Joseph L. Tierney to Mr. Bailey
RE: U.S. VS. W. MARK FELT, ET AL. (U)

New York Supervisor [] was in charge of the NYO portion of the discovery operation, is familiar with the files involved, and is acquainted with Martin. Arrangements will be made for Martin to review the above files Monday and Tuesday 3/10-11/80. (U)

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RECOMMENDATION:

None. For information.

APPROVED: *[Signature]*

Director *[Signature]*

Exec. AD-Inv. *[Signature]*

Exec. AD-Adm. *[Signature]*

Exec. AD-LES *[Signature]*

Adm. Serv. _____

Crim. Inv. _____

Ident. _____

Intell. _____

Laboratory _____

Legal Coun. *[Signature]*

Plan. & Insp. _____

Rec. Mgnt. *[Signature]*

Tech. Servs. _____

Training _____

Public Affs. Off. _____

[Signature]

~~SECRET~~

February 26, 1980

Director, FBI

U. S. VS. W. MARK FELT, ET AL.
TRIAL PREPARATION - DAMAGE ASSESSMENT (U)Assistant Attorney General
Criminal Division

1 - Mr. Colwell
1 - Mr. Boynton
1 - Mr. Steel
1 - Mr. Mintz
1 - Mr. Mullen
(Attn:)
1 - Mr. Bailey
2 - Mr. Cregar
(1 -)
1 - Mr. Daly
1 - Mr. Tierney

b6
b7C

In response to the request of John W. Nields, Jr., for a detailed assessment of the damage to be expected from public disclosure of the surreptitious entries conducted against the U.S. - China People's Friendship Association (USCPFA), and against Claude Lightfoot and John Abt, I have directed the Intelligence Division of the FBI to prepare such an assessment. This assessment was prepared by the specialists responsible for past and present supervision of our investigations in both areas. I have reviewed their assessment and, on the basis of that review, I support it. (U)

Enclosure

1 - Mr. John W. Nields, Jr. (Enclosure)
Criminal Division

DWM/MJS/JLT:tdp
(14)

NOTE:

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 06-10-2009

This letter is in response to Mr. Nields' specific request and covers only the USCPFA and the Lightfoot prosecution which Mr. Nields has indicated he believes the court will find essential for use at the trial. It does not cover any adverse rulings by the court on prosecution motions now pending, nor does it cover any general overall assessment of damage which Mr. Nields has indicated would be more appropriately outlined after the court rules on the prosecution motions. (U)

APPROVED:

Adm. Serv. _____
Crim. Inv. _____

Legal Coun.

Plan. & Insp.

Rec. Mgnt.

Tech. Servs.

Training

Public Affs. Off.

Director *W.H.W.*
Exec. AD-Inv. _____
Exec. AD-Adm. _____
Exec. AD-LES _____

Ident. _____
Intell. _____
Laboratory _____

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22 MAR 31 1980

Classified and Extended by 4412

Reason for Extension FCIM II, 1-2.4.2 (2,3)

Date of Review for Declassification 2/26/2000

Assoc. Dir. _____
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Dep. AD Inv. _____
Asst. Dir.:
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
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Tech. Servs. _____
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Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

MAIL ROOM ☐

FBI/DOJ

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1,6)
DATE 04-24-2009

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Dupe on pg30

ALL INFORMATION CONTAINED
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WHERE SHOWN OTHERWISE

February 26, 1980

U. S. VS. W. MARK FELT, ET AL.
TRIAL PREPARATION - DAMAGE ASSESSMENT (U)

CAUTION: This document contains information, access
to which requires the specific approval of the Attorney General.

The USCPFA was organized in June, 1971. [REDACTED]

(U)

[REDACTED]
from the inception of this organization, sources identified it
as operating under the influence of the Revolutionary Union (RU).
Some chapters were considered to be totally controlled by the RU.
The San Francisco chapter was such a chapter. (S)

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b7C

The USCPFA and the RU sponsored delegations travelling
to the PRC. The USCPFA delegations were led by RU members of
USCPFA. [REDACTED]

(S)

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Public Affs. Off. _____
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Director's Sec'y _____

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Classified and Extended by 4412

Reason for Extension FCIM II, 1-2.4.2 (1,2,3)

Date of Review for Declassification 2/26/2010

DWM/MJS/JLT:tdp (14)

Greenberg/Gray 7118

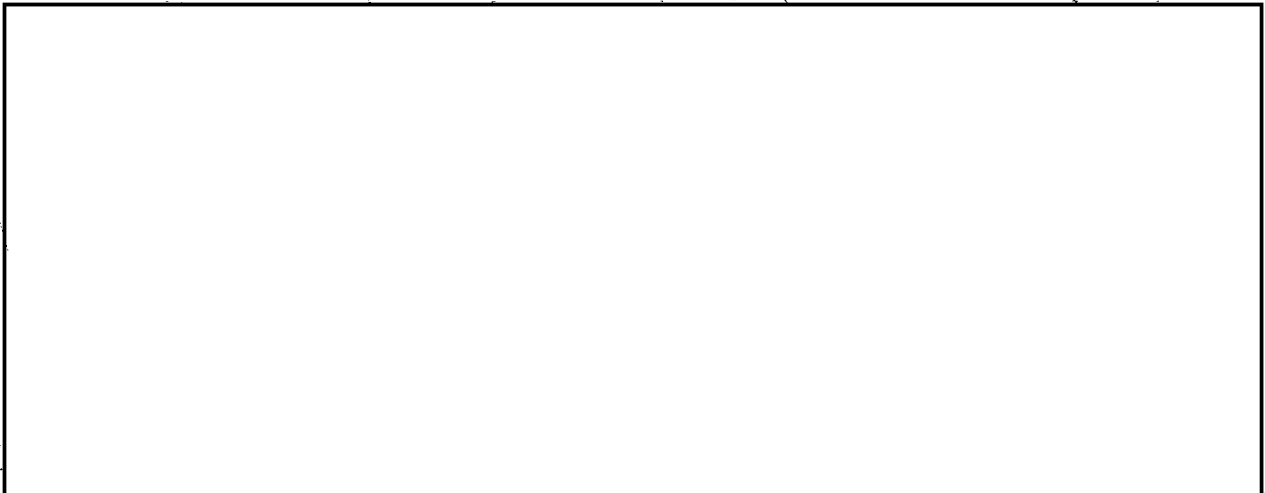
ENCLOSURE

FBI/DOJ

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U. S. VS. W. MARK FELT, ET AL.
TRIAL PREPARATION - DAMAGE ASSESSMENT (U)

(S)



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b7C

(U) The first USCPFA tour is frequently characterized by RU members as the first RU trip to the PRC. A tour led by [redacted] sponsored as a USCPFA tour left the U.S. during the first part of January, 1973, returning at the end of January, 1973. Another USCPFA tour entered the PRC April 2, 1973, led by [redacted] an RU member. (S)

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(U) On December 12, 1972, in a letter to FBI Headquarters, the San Francisco Office made the observation that the USCPFA in San Francisco was dominated by the RU and that they would intensify their investigation of the USCPFA to identify RU members in the organization. (S)

(U) Against this backdrop, the USCPFA surreptitious entry was conducted in San Francisco April 15, 1973. (S)

(S)



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Disclosure of this surreptitious entry, clearly conducted in the atmosphere of a foreign counterintelligence investigation, would cause the following damage:

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U. S. VS. W. MARK FELT, ET AL.
TRIAL PREPARATION - DAMAGE ASSESSMENT (U)

1.

(S)

[Redacted]

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2. Disclosure would also degrade the effectiveness of the continuing full domestic intelligence investigation of the Revolutionary Communist Party (formerly the Revolutionary Union). It would also inhibit current foreign counterintelligence investigations of individuals, who were under investigation at the time of the entry because of their activities on behalf of the USCPFA.

3.

(S)

[Redacted]

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[Redacted]

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U. S. VS. W. MARK FELT, ET AL.
TRIAL PREPARATION - DAMAGE ASSESSMENT (U)

(U) The Claude Lightfoot situation concerns not only the potential degradation of our counterintelligence posture against the Communist Party USA (CPUSA), and against the Soviet Union, but also the loss of live assets, possibly including those involved in a sensitive operation directed against the CPUSA for over 25 years. (S)

(U) Claude Lightfoot has been a national leader of the CPUSA in the Chicago area, who had been prosecuted under the Smith Act and in 1958 was scheduled to be retried. Lightfoot himself was the target of surreptitious entries at his summer residence in Michigan in 1955. John Abt is a member of and prominent attorney for the CPUSA. He was also the target of surreptitious entries in 1958. These entries disclosed correspondence to Abt from the law advisor to the judge who handled the initial trial of Lightfoot and who was scheduled to retry the case. The correspondence was viewed as evidencing an improper influence over the judge since the law advisor to the judge was discussing the case with an attorney associated with the defense. (S)

(U) Both Lightfoot and Abt remain the subjects of pending investigations. (S)

(U) We have been advised the entries against Lightfoot himself are likely to be solved by summary or stipulation, but that the entries against Abt are different, since the documents must be available in court to determine whether or not they reflect notice to the Department of Justice of the use of the entry technique. The disclosure of either is likely to place live assets in substantial jeopardy. (S)

(U) The FBI now has five high-level CPUSA sources; not including the long-standing operation mentioned above, which involves several assets. The operation is known as the "SOLO" operation, and the assets are referred to individually as SOLO assets. (S)

Lightfoot is and was a close associate of the SOLO asset in Chicago. The entry against Lightfoot at his summer residence, previously considered impossible to accomplish, was successfully attempted because we were aware Lightfoot was drafting a major policy statement for use at an upcoming

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- 4 -

Greenberg/Gray-7121

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U. S. VS. W. MARK FELT, ET AL.
TRIAL PREPARATION - DAMAGE ASSESSMENT (U)

(U) national CPUSA meeting. The Chicago SOLO asset could have been the source of the information about Lightfoot's planned activity at his summer residence. A damage assessment by the CPUSA (undoubtedly assisted by the Soviets) could certainly include consideration of the possibility that the information about Lightfoot's planned activities at the summer residence could have come from his close associate, the SOLO asset. (S)

(U) The entries against Abt were not related to Lightfoot and the information concerning the law advisor's relationship was an incidental benefit. Abt is and has been a close associate of the SOLO asset in New York. Abt's wife is the recipient of Soviet funds specifically designated for her, and Abt himself has been paid from Soviet funds. Entries against Abt have been made solely as a result of SOLO information. The involvement of the SOLO assets in the delivery of the Soviet funds to the CPUSA is at the heart of the incontrovertible conclusion that the CPUSA is controlled by the Soviet Union. (S)

(U) We have already agreed to release during trial the existence of entries directed against the CPUSA, without specifying targets or dates. The assumptions which could be made by the CPUSA and the Soviets from this admission, and the damage assessment it permits, could cause a harm to the national security. Though demonstrable, that harm is acceptable, given the importance of this unique prosecution. (S)

(U) Admission of the Abt entries, however, allows additional assumptions of more serious consequence to be made. The CPUSA and the Soviets could first assume we had access to and understanding of all CPUSA records, including financial ledgers reflecting receipt of funds which came from the Soviets, maintained in Abt's office, at least in the late 1950's. They could also assume we had conducted entries against similar targets, perhaps the offices of other national figures in the CPUSA and of the CPUSA itself. The task of conducting a damage assessment of the loss to be expected when all CPUSA premises must be considered would be formidable and, we believe, less likely to be attempted. Once oriented to Abt and other targets of similar stature, the assessment is likely to be attempted and could be highly damaging to our investigative program and the security of our assets. (S)

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- 5 -

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U. S. VS. W. MARK FELT, ET AL.
TRIAL PREPARATION - DAMAGE ASSESSMENT (U)

(U) We believe the SOLO assets might have been identifiable from materials located in Abt's office in 1958. Whether or not this is actually so, the damage assessment could take it into consideration as a possibility. Given the second assumption of other entries directed against similar targets at the same time, however, we are certain that SOLO assets and other secret members of the party could be identifiable and the assessment would probably assume they had been identified. (S)

(U) Central to our analysis of the danger, and to the damage assessment by the CPUSA and the Soviets which revelation of these entries could prompt or assist, is the fact that the SOLO assets were never the targets of surreptitious entries, COINTELPRO actions, intensive overt investigation, or prosecution. For over 25 years we have carefully preserved the appearance of lack of U.S. knowledge of the secret CPUSA activities of the SOLO assets. The CPUSA and the Soviets could conclude we must have learned of the secret memberships from the Lightfoot, Abt, or similar entries. Their damage assessment then could question why we did not act on that information, and compromise by the FBI of secret members is a logical answer. (S)

(U) The SOLO assets have travelled regularly outside the U.S. to the Soviet Union, including trips for the purpose of transferring Soviet funds. The top SOLO asset was publicly known as a CPUSA official until the late 1940's when he withdrew from CPUSA activity. We recruited him in the early 1950's and he has been a secret member of the CPUSA since that time. The second most important SOLO asset has also been a secret CPUSA member since about 1950. Neither is known to our other assets as current CPUSA members. Both assets have devoted almost half their lives to assisting the U.S., are in fragile health, and could be ostracized, if compromised, by all of their associates who, at this stage, are almost exclusively CPUSA related. We have on numerous occasions acknowledged to them our moral obligations to protect them. (S)

Numerous claims of privilege have been submitted by Attorneys General Levi, Bell and Civiletti to protect SOLO information and preserve this operation. The operation has been reviewed by Presidents Ford and Carter. President Carter

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- 6 -

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U. S. VS. W. MARK FELT, ET AL.
TRIAL PREPARATION - DAMAGE ASSESSMENT (U)

(U) authorized its continuation and ordered strict limitation of knowledge concerning it. (S)

(U) The CPUSA has demonstrated its ability to take effective countermeasures based upon perceived dangers: following World War II it executed with partial success very effective plans to go underground because of its expectation of declining U.S. - Soviet relations; following the McCarthy Era and the Smith Act prosecutions it ceased issuing membership cards and reduced the maintenance of meticulous membership records when its vulnerability on that point became apparent. A comparable reaction to publication of entries, particularly the Abt entry, could be expected. Even though we might retain our assets, their effectiveness is likely to be curtailed severely since much of their reporting is based on their access to records. The CPUSA might be expected to limit access to records now accessible to our assets, or even discontinue maintenance of those records. (S)

Revelation of these or similar entries could result in the following damage:

1. It could allow an analysis of the depth, scope, and degree of our knowledge of the CPUSA. This could result in the identification of assets, possibly including SOLO assets, and allow the CPUSA and the Soviets to institute countermeasures to thwart our current and future efforts in this pending foreign counterintelligence investigation. The FBI today speaks with confidence concerning the threat posed by the Soviet-controlled CPUSA. Uncontrolled loss of the asset coverage and countermeasures could allow the Soviets to redirect the CPUSA without our knowledge.

2. It could prevent us from fulfilling our obligation to safeguard the interests and personal safety of the assets thus identified, particularly the SOLO assets. This could be publicized within the CPUSA and render cultivation of replacements nearly impossible since any targets for development could have documentation of our inability to protect them. Since the Soviets could have the same documentation, assets and potential assets in the Soviet intelligence services could be convinced beyond any arguments to the contrary that we could not assure their safe cooperation.

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U. S. VS. W. MARK FELT, ET AL.
TRIAL PREPARATION - DAMAGE ASSESSMENT (U)

(U) 3. The international repercussions of the uncontrolled collapse of the SOLO operation are beyond our capacity to evaluate, particularly since the U.S. is in a time of increased tension with the Soviet Union. Although the potential repercussions are not necessarily entirely negative from our country's viewpoint, the danger lies in their unpredictability. (S)

APPROVED: *[Signature]*

W
Director _____
Exec. AD-Inv. _____
Exec. AD-Adm. _____
Exec. AD-LES _____

Adm. Serv. _____
Crim. Inv. *FW/CM*
Ident. _____
Intell. *WOB*
Laboratory _____

JM
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____

change noted
P. 7 second full paragraph should be internally consistent.
"could result"
"would result"

b6
b7C

Eduardo Bralley

JM
All appropriate "would" changed to "could."

R. Tierney

~~SECRET~~
- 8 -

UNITED STATES GOVERNMENT

FEDERAL GOVERNMENT

Memorandum

TO : Joseph L. Tierney
Federal Bureau of Investigation

FROM : John W. Nields, Jr. *4wncf*
Criminal Division

SUBJECT: United States v. ^{W. MARK O} Felt

DATE: March 18, 1980

Please obtain from the FBI's New York office the
criminal case file on , circa 1972, 1973. b6
When it is received, please process it for discovery. b7c

[Handwritten mark]

4-8
62-118045-268

MAR 31 1980

62-118045

Greenberg/Gray-7126



[Handwritten initials]
4 APR 9 1980

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

TO : MR. BOYNTON

FROM : W. L. BAILEY

SUBJECT: UNITED STATES v. W. MARK FELT, et al.

DATE: 2-21-80

Exec AD Inv. _____
Exec AD Adm. _____
Exec AD LES _____
Asst. Dir.: _____
Adm. Servs. _____
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Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

John Nields, Special Counsel, U.S. Department of Justice, advised this date that trial in captioned matter has been postponed from March 17, 1980, to May 12, 1980.

The postponement was based on a request of the defense which was not objected to by the Government.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-24-2009 BY 65179 dmh/baw/sbs

APPROVED: *WLB*

Director _____

Exec. AD-Inv. _____

Exec. AD-Adm. _____

Exec. AD-LES _____

Adm. Serv. _____

Crim. Inv. _____

Ident. _____

Intell. _____

Laboratory _____

Legal Coun. _____

Plan. & Insp. _____

Rec. Mgnt. *WLB*

Tech. Servs. _____

Training _____

Public Affs. Off. _____

1-Mr. Colwell
1-Mr. Boynton
1-Mr. Bailey
1-Mr. Cregar
1-Mr. Mullen
1-Mr. Steel
1-Mr. Tierney

PVD:jmr *Jmr*
(8)

62-118045-269

22 MAR 31 1980

4-585

62-118045
4 APR 9 1980

Greenberg/Gray-7127

~~CONFIDENTIAL~~

UNITED STATES GOVERNMENT

Memorandum

TO : William H. Webster
Director, FBI

FROM : Philip B. Heymann
Assistant Attorney General

SUBJECT: United States v. Felt, et al

DATE: February 29, 1980

~~FEDERAL GOVERNMENT~~

P. 76.

*See
Trerney
Reply*

(U) Re your memorandum to me of February 26, 1980 relating to the above case, the Attorney General approved on February 26, 1980 the declassification of surreptitious entries conducted against John Abt in the late 1950's which are mentioned in discovery documents in the above case, and of the surreptitious entry conducted against the United States China Friendship Association in 1973. The declassifications will occur only if and when the trial Judge rules proof with respect to them by the defense to be admissible at trial. (X)

The Attorney General has not approved declassification of any information received from a foreign government intelligence service. Indeed, the issue of declassification for trial of any such information has never been raised with him. (U)

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 06-10-2009

Exec AD Inv.	
Exec AD Adm.	
Exec AD LES	
Asst. Dir.:	
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Public Affs. Off.	
Telephone Rm.	
Director's Sec'y	

FBI/DOJ

62-118045-270
2 APR 1 1980

CLASS. & EXT. BY *derivative*
REASON *50 USC 4 - no records*
DATE OF REVIEW *3/4/2000*

62-118045-

4-985

2-ENCLOSURE

ROUTE IN ENVELOPE

6 4 APR 9 1980

~~CONFIDENTIAL~~

Greenberg/Gray-7137



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

Form OBD-197
MAY 1978

FBI

TRANSMIT VIA:

☐ Teletype☐ Facsimile☒ AIRTEL

PRECEDENCE:

☐ Immediate☐ Priority☐ Routine

CLASSIFICATION:

☐ TOP SECRET☐ SECRET☐ CONFIDENTIAL☐ UNCLAS E F T O☐ UNCLAS

Date 3/3/80

TO: DIRECTOR, FBI (62-118045)
 (ATTN: CIVIL RIGHTS AND SPECIAL INQUIRY
 SECTION, ROOM 3823)

b6
b7c

FROM: ADIC, NEW YORK (62-15466) (RUC) (M-13)

SUBJECT: US VERSUS FELT, W. MARIC
 ET AL

ReButel to New York, dated 2/20/80.

Enclosed for FBIHQ is one SF-86 and two copies
 of FD-406 executed by THOMAS A. BOLAN and LOUIS BIANCONE
 respectively.

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 04-24-2009 BY 65179 dmh/baw/sbs

2 - Bureau (Enc's.)
 1 - New York

DMS:mlg
 (4)

Approved: APR 1 1980

Transmitted

(Number)

(Time)

Per

Greenberg/Gray-7138

124

 DEPARTMENT OF JUSTICE
 FEDERAL BUREAU OF INVESTIGATION
 COMMUNICATION MESSAGE FORM

 PAGE 1 OF 2
 DATE

2/20/80

CLASSIFICATION

UNCLAS

PRECEDENCE

PRIORITY

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STAY HERE

FM DIRECTOR FBI (62-118045)

TO FBI NEW YORK PRIORITY

 ALL INFORMATION CONTAINED
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DATE 04-24-2009 BY 65179 dmh/baw/sbs

BT

14 UNCLAS

U. S. VS. W. MARK FELT ET AL.

12 REBUTELCAL TO SUPERVISOR [REDACTED], FEBRUARY 20, 1980.

b6
b7C
 10 DEPARTMENT HAS REQUESTED FBI ASSISTANCE TO EXPEDITE
 8 INITIATION OF SECURITY CLEARANCE BACKGROUND INVESTIGATION FOR
 6 TWO ATTORNEYS OF FORMER FBI EMPLOYEE, W. LA PRADE, WHO DEPART-
 4 MENT DESIRES TO INTERVIEW. NEW YORK WAS REQUESTED TO OBTAIN
 2 BACKGROUND FORMS FROM JOE VITALE IN U. S. ATTORNEY'S OFFICE,
 SOUTHERN DISTRICT OF NEW YORK, AND DELIVER THEM TO THOMAS A.
 BOLAN AND LEWIS BIANCONI, 39 EAST 68TH STREET, NYC, TELEPHONE
 472-1400. WHEN ATTORNEYS HAVE COMPLETED FORMS, NEW YORK SHOULD
 RETRIEVE THEM AND FORWARD EXPEDITIOUSLY TO FBIHQ, ATTENTION
 SECTION CHIEF JOHN LAWN, CIVIL RIGHTS AND SPECIAL INQUIRY

DO NOT TYPE MESSAGE BELOW THIS LINE

APPROVED BY

fmm/82

DRAFTED BY

JDD:BAM (2)

DATE

2/20/80

ROOM

3823/6

TELE EXT.

5591

RETURN TO MR. DOMZALSKI, ROOM 3823

62-118045-272

APR 3 1980

 FEDERAL BUREAU OF INVESTIGATION
 COMMUNICATIONS SECTION

 03232-8-2
 FEB 21 1980

APR 11 1980

DO NOT FILE WITHOUT COMMUNICATIONS Greenberg/Gray-7139

FBI/DOJ

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DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

PAGE

2

CONTINUATION SHEET

PAGE TWO DE HQ 0124 S*UNCLAS

SECTION, ROOM 3823. INDIVIDUAL BACKGROUND INVESTIGATION WILL
BE SUBSEQUENTLY INSTITUTED UPON SPECIFIC REQUEST OF DEPARTMENT.

BT

⌘

DO NOT TYPE PAST THIS LINE

DO NOT TYPE MESSAGE BELOW THIS LINE

Greenberg/Gray-7140

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Bailey

FROM : Joseph L. Tierney

SUBJECT: U.S. VS. W. MARK FELT, ET AL.
DISCOVERY, TRIAL PREPARATION

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

1 - Mr. Boynton
1 - Mr. Colwell
DATE: 4/28/80
1 - Mr. Steel
1 - Mr. O'Malley
1 - Mr. Mullen
1 - Mr. Bailey
1 - Mr. Daly
1 - Mr. Tierney

Exec AD Inv. _____
Exec AD Adm. _____
Exec AD LES _____
Asst. Dir.:
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

PURPOSE:

To advise of trial postponement from May 12 to July 7, 1980.

DETAILS:

At an in-chambers hearing today, April 28, the trial judge noted preparations for trial had made insufficient progress to allow trial to commence on schedule on Monday, May 12, 1980. He therefore reset trial for Monday, July 7, 1980. He stated his intention to allow sufficient lead time for all necessary preparations. He indicated judges frequently say no further continuances would be granted under similar circumstances, and then said, for the record, no further continuances would be granted.

Today's hearing covered only foreign involvement trial preparation; and cross discovery issues. Only the cross discovery issues were settled. Defendants have until Tuesday, May 6, to list all documents they intend to use at trial. The court denied defendant Felt's motion for discovery of the prosecution's rebuttal documents on the foreign involvement issue.

Prosecution and defense are to confer immediately in an effort to resolve all trial document disagreements in all areas except foreign involvement. The hearing was continued until Thursday, May 1, 1980. The other trial preparation motions, brought primarily by the prosecution, will be entertained at that time.

RECOMMENDATION:

None. For information.

22 MAY 6 1980

APPROVED: _____

Director _____
Exec. AD-Inv. _____
Exec. AD-Adm. _____
Exec. AD-LES _____

Adm. Serv. _____
Crim. Inv. _____

Ident. _____
Intell. _____
Laboratory _____

Legal Coun. _____

Plan. & Insp. _____

Rec. Mgnt. _____

Tech. Servs. _____

Training _____

Public Affs. Off. _____

ALT:tdp (9)

64 JUL 2 1980

Greenberg/Gray-7141

FBI/DOJ

DATE: 5/6/80

UNITED STATES GOVERNMENT
memorandum

REPLY TO: *W. Marks*
ATTN OF: LEGAT, MEXICO CITY (62-234) (RUC)

SUBJECT: UNITED STATES VERSUS ⁶FELT
INFORMATION CONCERNING

sr
e
TO: DIRECTOR, FBI
(ATTN: LIAISON UNIT; CI-3)

Re Mexico City teletype to Bureau, 4/16/80; and
telephone calls of JOHN W. NIELDS, USDJ, District of
Columbia, 5/24/80.

At 1:55 p.m. on 5/24/80, at Cuernavaca, Morelos,
Mexico, [redacted] was personally served with a
subpoena and court order by Vice Consul WILLIS E. HUME,
American Embassy, Mexico City. HUME was accompanied by
Assistant Legal Attache [redacted].

b6
b7C

1-2
② - Bureau
1 - Mexico City
AAR:sdr
(3)

62-118045-272x1

16 MAY 13 1980

Greenberg/Gray-7142



64 JUL 3 1980

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 11/5/82 BY SP2789/abk

OPTIONAL FORM NO. 10
(REV. 7-76)
GSA FPMR (41 CFR) 101-11.6
5010-112

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

PAGE 1 OF 2		CLASSIFICATION		PRECEDENCE	
DATE 4/23/80		UNCLAS E F T O		ROUTINE	
#F059ERR CG NK NY SFIDE HQ H0059 #H44ETR 231451Z APR 80					
▶ START HERE					
FM DIRECTOR, FBI TO TO FBI NEW YORK FBI CHICAGO. 14 FBI NEWARK FBI SAN FRANCISCO 12 BT UNCLAS E F T O 10 U. S. VS. W. MARK FELT, ET AL. DISCOVERY PROCEEDINGS 8 THIS CONFIRMS TELEPHONE CALLS APRIL 22 TO ASACS WRIGHT AND IVEY, SUPERVISORS [REDACTED] FROM SA TIERNEY, 6 RECORDS MANAGEMENT DIVISION, FBIHQ. RECIPIENT OFFICES SEND ORIGINAL FIELD OFFICE FILES 4 FOR [REDACTED] TO FBIHQ, ROOM 4859, TELELIFT NUMBER 224 TO ARRIVE NEXT FRIDAY, APRIL 25, IF POSSIBLE. COPY 2 OF FILE SHOULD BE RETAINED BY EACH OFFICE. ORIGINAL FILE MUST COVER ONLY TIME PERIOD 3/1/69 THROUGH 10/31/73, BUT DO NOT TYPE MESSAGE BELOW THIS LINE					
APPROVED BY WCB	DRAFTED BY JLT:dmw {4}	DATE 4/23/80	ROOM 4859	TELE EXT. 4763	

1 - Mr. Bailey
1 - Mr. Dean
1 - Mr. Tierney

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b7C

b6
b7C

62-118045-272x2

EA APR 25 1980

60 JUL 16 1980
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION
22/52
APR 23 1980

DO NOT FILE WITHOUT COMMUNICATIONS STAMP
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FBI/DOJ

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

PAGE 2

CONTINUATION SHEET

PAGER TIME DE HQ 0059 UNCLAS E F T O

MUST INCLUDE ALL SUB FILES INCLUDING SURVEILLANCE LOGS,

20 ANY ELSUR RELATED MATERIALS LOCATED, AND BULKY ENCLOSURES.

18 RESOLVE ANY QUESTIONS BY TELEPHONE CALL TO FBIHQ,

EXTENSION 4763.

16 TRIAL NOW REMAINS SCHEDULED FOR MAY 12. THIS ADDITIONAL

DISCOVERY ORDERED BY COURT MONDAY, APRIL 21. TO BE ACCOMPLISHED

14 IMMEDIATELY.

BT

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DO NOT TYPE PAST THIS LINE

DO NOT TYPE MESSAGE BELOW THIS LINE

Greenberg/Gray-7144

FBI

TRANSMIT VIA:

☐ Teletype
☐ Facsimile
☒ Airtel

PRECEDENCE:

☐ Immediate
☐ Priority
☐ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☐ UNCLAS

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 04-24-2009 BY 65179 dmh/baw/sbs

Date 3/28/80

TO: DIRECTOR, FBI (62-118045)
 (ATTN: SA JOSEPH TIERNEY)

FROM: SAC, WFO (62-RC) (RUC)

SUBJECT: U.S. VS. W. MARK FELT, ET AL.
DISCOVERY PROCEEDINGS

ReBUairtel to WFO dated 3/24/80.

b6
b7C

Number [redacted] was issued Passport
 Number [redacted] on 7/25/69 at Washington, D.C., for proposed
 travel to Israel for purpose of tourism. Proposed length of
 stay was two months. Approximate date of departure was
 'August 1.'

(Passport file was reviewed 9/9/71 by SC [redacted]
 [redacted], FBI.)

b6
b7C

Expiration date of 1969 passport was 7/24/74.

In March, 1975, subject applied for a new
 passport, at which time she said the passport issued to her
 in '1970?' had been lost while she was moving.

10 APR 16 1980

She was issued No. [redacted] on 3/17/75 at San
 Francisco for proposed pleasure travel for one month to
 Mexico and Guatemala. She did not give an approximate date
 of departure.

b6
b7C

2- Bureau
 1- WFO

MB:spg
 (3)

*Copy detached
 and furnished to
 J. Martin;
 DOJ
 4/3/80*

*4-5K
 5-9m*

Approved: *[Signature]* Transmitted _____ (Number) _____ (Time) Per _____

Greenberg/Gray-7145

FBI/DOJ

WFO 62-RC

Expiration date of her 1975 passport was 3/16/80.

On 10/27/75, under FOIA, subject requested from the Department of State:

I believe that you may be maintaining files and/or information on or pertaining to me, or concerning groups or organizations with which I have been actively involved, including cross-references to me in files under other person's names. I am writing to request a copy of any and all such materials.

This review was conducted at the Office of Passport Services by SC [redacted] on 3/27/80.

b6
b7C

UNITED STATES GOVERNMENT

Memorandum

FEDERAL GOVERNMENT

TO : Paul V. Daly
Federal Bureau of Investigation

DATE: April 2, 1980

FROM : Francis J. Martin
Criminal Division

SUBJECT: United States v. Felt
INFO. CONCERNING

b6
b7C

One of the victims in the indictment in this case, [redacted] is presently believed to be in Cuernavaca, Mexico. We wish to subpoena [redacted] but prior to making any such efforts would like to know whether she is, in fact, in Cuernavaca. Our information is that [redacted] may be attending or at "a Spanish school" in Cuernavaca. Please have your Legat determine whether [redacted] is in Cuernavaca, how long she is likely to be there and, if she is not there, obtain any available information concerning her present whereabouts. It is important that [redacted] not be aware of any governmental interest in her.

b6
b7C

Please handle this request on an expedited basis and advise me of the results as soon as possible.

Thanks

62-118045-272x4

16 APR 16 1980

60 JUL 11 1980

Greenberg/Gray-7147



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

Form OBD-197
MAY 1978

0-93 (Rev. 4-3-80)
142

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

PAGE 1 OF 2		
DATE 4-4-80	CLASSIFICATION UNCLAS E F T O	PRECEDENCE PRIORITY
ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 04-24-2009 BY 65179 dmh/baw/sbs		
START HERE		
FM DIRECTOR FBI		
TO LEGAL ATTACHE MEXICO CITY PRIORITY		
BT		
UNCLAS E F T O		
UNITED STATES VERSUS <u>FELT</u> ; INFORMATION CONCERNING.		
FOLLOWING RECEIVED FROM U. S. JUSTICE DEPARTMENT ON		
APRIL 3, 1980:		
ONE OF THE VICTIMS IN THE INDICTMENT IN THIS CASE, [REDACTED]		
[REDACTED] IS PRESENTLY BELIEVED TO BE IN CUERNEVACA, MEXICO.		
WE WISH TO SUBPOENA [REDACTED] BUT PRIOR TO MAKING ANY		
SUCH EFFORTS WOULD LIKE TO KNOW WHETHER SHE IS, IN FACT, IN		
CUERNEVACA. OUR INFORMATION IS THAT [REDACTED] MAY BE		
ATTENDING OR AT "A SPANISH SCHOOL" IN CUERNEVACA. PLEASE HAVE		
YOUR LEGAT DETERMINE WHETHER [REDACTED] IS IN CUERNEVACA,		
HOW LONG SHE IS LIKELY TO BE THERE AND, IF SHE IS NOT THERE,		
OBTAIN ANY AVAILABLE INFORMATION CONCERNING HER PRESENT WHERE-		
ABOUTS. IT IS IMPORTANT THAT [REDACTED] NOT BE AWARE OF		
DO NOT TYPE MESSAGE BELOW THIS LINE		
APPROVED BY Ego/awp	DRAFTED BY JAM:JKR [REDACTED]	DATE 4-4-80
ROOM 4634/5	TELE EXT. 4691/232	

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b6
b7C

1 - LIAISON UNIT

SPW
60 JUL 07 1980

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS CENTER
03352M
APR 16 1980

62-118045-27245

16 APR 16 1980
ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE SP2Tnpaw BY 11/5/82

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Greenberg/Gray-7148

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

PAGE 2

CONTINUATION SHEET

PAGE TWO DE HQ 0142 UNCLAS E F T O

ANY GOVERNMENTAL INTEREST IN HER.

20 [REDACTED] ISSUED U. S. PASSPORT NUMBER [REDACTED] ON
18 MARCH 17, 1975, AT SAN FRANCISCO FOR PROPOSED PLEASURE TRAVEL
TO MEXICO AND GUATEMALA.

16 MEXICO CITY REQUESTED TO ATTEMPT TO COMPLY WITH EXISTING
INSTRUCTIONS AND SUTEL REPLY ATTENTION LIAISON UNIT, CI-3, F.

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Greenberg/Gray-7149

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM~~SECRET~~O 18477
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P CN PAGE 1 OF 1

DATE 5/7/80	CLASSIFICATION UNCLAS E F T O	PRECEDENCE ROUTINE
#F164ERR CGUDE HQ H0164 #H04ERR 072102Z MAY 80		
▶ START HERE		
FM FM DIRECTOR FBI	EXEMPTED FROM AUTOMATIC DECLASSIFICATION AUTHORITY DERIVED FROM: FBI AUTOMATIC DECLASSIFICATION GUIDE EXEMPTION CODE 25X(1) DATE 04-24-2009	
TO TO FBI CHICAGO 1		
ATTN: SUPERVISOR 		
14 BT	b6 b7C	
UNCLAS E F T O		
12 U. S. VS W. MARK FELT, ET AL.	<i>MARK W. Felt</i>	
TRIAL PREPARATION		
10 FURNISH XEROX COPY OF CHICAGO 100-40903-SUB J TO FBI		
HEADQUARTERS, ATTN: SA TIERNEY, ROOM 4859. AT YOUR DISCRETION,		
8 YOU MAY OMIT MATERIALS IN THE SUB J WHICH DID NOT ORIGINATE		
WITH CG 7396-S OR CG 7397-S. DELIVERY BY TUESDAY, MAY 13		
6 WILL SUFFICE.		
NOTE DOCUMENTS MAY NO LONGER BE CLASSIFIED SOLELY TO		
4 PROTECT THE EXISTENCE OF THE WIRETAPS DIRECTED AGAINST SDS.		
BT		
2		
DO NOT TYPE MESSAGE BELOW THIS LINE		
APPROVED BY <i>WLB</i>	DRAFTED BY JLT:jmh	DATE 5/7/80
ROOM 4859	TELE EXT. 4763	

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62-118045-272x6

OCT 3 1980

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE~~SECRET~~FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS CENTEROCT 7 1980
MAY 6 1980

59 OCT 22 1980

DO NOT FILE WITHOUT COMMUNICATIONS STAMP

Greenberg/Gray-7150

FBI/DOJ

~~SECRET~~

(S) NOTE: File to be reviewed at request of John W. Nields in an attempt to locate materials for use at trial as substitutes for materials originating with [redacted] This request has already been coordinated with Supervisor [redacted] Sub J used in Chicago as control file from which to channelize that product of these two technical surveillances. b1 b6 b7C

PARAGRAPH TWO COORDINATED WITH [redacted] b6 b7C

~~SECRET~~

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

TO : Mr. Boynton

DATE: 5/19/80

FROM : W. L. Bailey

SUBJECT: U. S. vs W. MARK FELT et al
TRIAL PREPARATIONS

Exec AD Inv. ☒
Exec AD Adm. ☒
Exec AD LES ☒
Asst. Dir.:
Adm. Servs. ☐
Crim. Inv. ☐
Ident. ☐
Intell. ☐
Laboratory ☐
Legal Coun. ☐
Plan. & Insp. ☒
Rec. Mgnt. ☒
Tech. Servs. ☐
Training ☐
Public Affs. Off. ☐
Telephone Rm. ☐
Director's Sec'y ☐

PURPOSE: To advise of a request by defense counsel to interview the Director.

RECOMMENDATION: That this request be brought to the Director's attention.

APPROVED: _____
Director _____
Exec. AD-Inv. ☒
Exec. AD-Adm. ☒
Exec. AD-LES ☒
Adm. Serv. ☐
Crim. Inv. ☐
Ident. ☐
Intell. ☐
Laboratory ☐
Legal Coun. ☐
Plan. & Insp. ☒
Rec. Mgnt. ☒
Tech. Servs. ☐
Training ☐
Public Affs. Off. ☐

DETAILS: On 5/19/80, Thomas J. Kennelly, attorney for Defendant Miller, contacted the Director's Office seeking an interview with the Director. The request was referred to SA Joseph L. Tierney.

Mr. Kennelly advised that both he and Brian P. Gettings, assisted by no more than one associate each, would like to interview the Director as a prospective defense witness in captioned matter. The testimony anticipated would involve the Director's report following his inquiry into the Surreptitious Entries Matter. Mr. Kennelly states he is interested in having the Director testify there were no rules or guidelines and there were great pressures brought to bear on the FBI at the time of the offense being prosecuted. Mr. Kennelly does not desire to go into any of the specifics of the administrative action and commented, specifically, he had no intention of causing embarrassment to the Director.

Mr. Kennelly would prefer to interview the Director sometime Thursday or Friday of this week or Tuesday or Wednesday of next week.

Mr. Kennelly may be reached locally at 872-0700.

In accordance with the policy of the prosecutor in this case, John W. Nields, Jr. has not been notified of this request. The prosecutor's policy has been that they should not be notified of potential defense witnesses.

1 - Mr. Boynton
1 - Mr. Colwell

1 - Mr. Mintz
1 - Mr. Otto

1 - Mr. Steel
1 - Mr. Bailey
1 - Mr. Tierney

JLT:jam (8)

57 OCT 22 1980

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Bailey *amp*

FROM : Joseph L. Tierney

SUBJECT: U. S. VS. W. MARK FELT, ET AL.
TRIAL PREPARATION

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

1 - Mr. Boynton
1 - Mr. Colwell
1 - Mr. Mintz
1 - Mr. Mullen
1 - Mr. O'Malley
1 - Mr. Steel
1 - Mr. Bailey
1 - Mr. Daly
1 - Mr. Tierney

DATE: 5/8/80

Exec AD Inv. ☒
Exec AD Adm. ☒
Exec AD LES ☒
Asst. Dir.:
Adm. Servs. ☐
Crim. Inv. ☐
Ident. ☐
Intell. ☐
Laboratory ☐
Legal Coun. ☐
Plan. & Insp. ☒
Rec. Mgnt. ☒
Tech. Servs. ☐
Training ☐
Public Affs. Off. ☐
Telephone Rm. ☐
Director's Sec'y ☐

PURPOSE:

To advise of status of preparations for trial 7/7/80, hearings on motions, and newly undertaken discovery processing.

DETAILS:

At hearings 4/28 and 5/7/80, the court ordered postponement of the trial from 5/12 to 7/7/80, discovery (in the vault) of files on Leibel Bergman (FBIHQ, NY, NK, CG, SF), and designation by defense of documents needed for trial by 5/6/80. *(00)*

The Bergman discovery is expected to be completed in the near future, possibly by Friday, 5/23/80. Field office files have been received at FBIHQ and are undergoing classification review now.

The defense has listed over 500 more documents for trial. Of these, only 221 were on the list which Divisions 5 and 6 worked on during December and January. There are approximately 300 new documents listed. I have advised Frank Martin, DOJ, I estimate this will take 3-6 weeks, more likely 6 weeks. *62-118045-272X8*

Mr. Martin predicts we have 10 days to two weeks to prepare these 300 documents. The trial will be delayed by whatever time we exceed two weeks. Martin can accept a one-week delay. He suggests we alter our procedures and perform two functions simultaneously on separate tracks: classification review and review by Divisions 5 or 6. I have advised Martin there is no assurance this will improve the final completion time, but we are willing to attempt it, although it will exacerbate coordination problems and jeopardize the quality of the final product. We have no choice. *5 OCT 1980*

Additional Division 4 personnel are being assigned to these tasks. Divisions 5 and 6 should be alert to the need to handle their portions of the processing as promptly as is practical. It would be premature to suggest overtime work at this time, but we will keep overtime in mind and will request it, if necessary.

CONTINUED - OVER

SLT:tdp (10) *tdp*

57 OCT 9 1980

4-8
62-118045

Memorandum Joseph L. Tierney to Mr. Bailey
RE: U. S. VS. W. MARK FELT, ET AL.
TRIAL PREPARATION

At the 5/7/80 hearing the court began to review documents on which prosecution and defense were unable to agree. The court ruled on 10 out of an estimated 50 problem documents. Two or three other documents were agreed upon on the spot and removed as issues. One document was referred for further research by the prosecution rather than submit to an adverse ruling or an undesirable stipulation.

None of the problems involved issues of concern to the FBI, although all were FBI documents. There were four or five rulings against the prosecution where NSA has the primary interest. They will cause NSA great concern.

The hearing lasted three hours and was set over until Monday, 5/12/80.

RECOMMENDATION:

None. For information.

APPROVED: <i>[Signature]</i>	Adm. Serv. _____	Legal Coun. <i>[Signature]</i>
	Crim. Inv. _____	Plan. & Insp. <i>[Signature]</i>
Director _____		Rec. Mgnt. <i>[Signature]</i>
Exec. AD-Inv. <i>[Signature]</i>	Ident. _____	Tech. Servs. _____
Exec. AD-Adm. <i>[Signature]</i>	Intell. _____	Training _____
Exec. AD-LES _____	Laboratory _____	Public Affs. Off. _____

[Handwritten initials]

R 161630Z APR 80

~~CONFIDENTIAL~~ RECEIVED
TELETYPE UNIT

FM MEXICO CITY (62-234) (RUC) 2P
TO DIRECTOR ROUTINE NR. 253-16

16 APR 80 23 29Z

BT

RECEIVED
FEDERAL BUREAU
OF INVESTIGATION
COMMUNICATIONS SECTION

~~UNCLAS E F T O~~

ATTENTION LIAISON UNIT, CI-3. *Mark W. Feit*
UNITED STATES VERSUS FELT; INFORMATION CONCERNING.

RE BUTEL DATED APRIL 4, 1980.

A CONFIDENTIAL SOURCE ABROAD FURNISHED THE FOLLOWING

(U) INFORMATION ON APRIL 15, 1980: ~~(S)~~

WITNESS IS PHYSICALLY LOCATED AT COLEGIO

CUERNAVACA,

MORELOS, MEXICO. SHE ATTENDS CLASSES FROM 8:00 AM TO

2:00 PM DAILY AND CAN BE REACHED AT TELEPHONE NUMBER 2-16-98

ON CAMPUS. SHE WILL BE STUDYING THIS WEEK AND THE NEX ON
CAMPUS AND THEN WILL GO ON A WEEKS FIELD TRIP. AFTER THE FIELD

TRIP SHE WILL RETURN TO THE CAMPUS FOR ONE WEEK OF STUDY AND

(U) DEPART THE INSTITUTION ON MAY 7, 1980. *62-118045-272x9*

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-24-2009

5 OCT 3 1980

34
60 OCT 24 1980

*Mieids
notified
4/21/80
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4-BALY

CLASS. BY *SP2 TAP/AR*

62-118045

~~CONFIDENTIAL~~

Greenberg/Gray-7155

Exec. AD-Inv.	
Exec. AD-Adm.	
Exec. AD-LES	
Asst. Dir.:	
Adm. Servs.	
Crim. Inv.	
Ident.	
Intell.	<i>Ep</i>
Laboratory	
Legal Coun.	
Plan. & Insp.	
Rec. Mgmt.	
Tech. Servs.	
Training	
Public Affs. Off.	
Telephone Rm.	
Director's Sec'y	

b6
b7C

PAGE TWO MX 62-234 ~~UNCLAS E F T O~~

(U) PRESUMABLY SHE WILL RETURN TO THE UNITED STATES. SHE DID NOT FURNISH A RESIDENCE ADDRESS IN CUERNAVACA. (C)

ADMINISTRATIVE:

(U) THE CONFIDENTIAL SOURCE ABROAD IS (C) b2 b7D

IT IS SUGGESTED THAT IF THE DEPARTMENT WISHES TO BE MADE AWARE WHEN THE WITNESS RETURNS TO THE UNITED STATES THAT A STOP BE PLACED IN THE EPIC COMPUTER AND LOOKOUT BOOK.

BT

not done

~~CONFIDENTIAL~~

Greenberg/Gray-7156

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

~~SECRET~~

TO : MR. BOYNTON ^{4B}

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION

DATE: 4-16-80

FROM : W. L. BAILEY ^{WLB}

AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1,6)
DATE 04-24-2009

SUBJECT: U.S. vs. W. MARK FELT, et al

Exec AD Inv. ☒
Exec AD Adm. ☒
Exec AD LES ☒
Asst. Dir.:
Adm. Servs. ☐
Crim. Inv. ☐
Ident. ☐
Intell. ☐
Laboratory ☐
Legal Coun. ☐
Plan. & Insp. ☒
Rec. Mgnt. ☒
Tech. Servs. ☐
Training ☐
Public Affs. Off. ☐
Telephone Rm. ☐
Director's Sec'y ☐

PURPOSE:

To advise Department inadvertently disclosed sensitive foreign counter-intelligence (FCI) operation to defense in captioned matter and to set forth steps to prevent additional disclosure by the defense. (U)

DETAILS:

John Nields, special prosecutor for the Department in captioned matter, telephonically advised ASAC Paul V. Daly on this date that one of his staff had mistakenly placed a package of unredacted documents in the Departmental vault on April 15, 1980, and that these documents were reviewed by the defense. By way of explanation, the Department is furnished two sets of discovery documents, one of which is redacted to protect sensitive operations, sources, etc. A paralegal on Nields' staff inadvertently placed the unredacted set in the vault. The unredacted documents disclosed foreign government information of a very sensitive nature as well as an extremely sensitive FCI operation. b1

(S) [redacted] It was an extremely successful operation and netted extremely valuable intelligence. (S) 62-118045-272X10

This disclosure was discussed with Nields and it is believed that it would be advantageous to brief defense counsel concerning this matter and to apprise them of the sensitivity of the information. Up to this point, based on what the defense has seen, they would be aware, and have in fact stated, [redacted]

(S) [redacted] They may not appreciate the sensitivity of the information in their possession. They, in fact, have sufficient information to compromise the operation as well as the [redacted] Nields agrees that such a briefing of the defense would be very desirable. (S)

- 1-Mr. Colwell
- 1-Mr. Boynton
- 1-Mr. Steel
- 1-Mr. O'Malley
- 1-Mr. Mullen
- 1-Mr. Daly
- 1-Mr. Tierney

PVD:jmr
(8)

~~SECRET~~

Classified and Extended by 6080
Reason for Extension FCM II, 1-2.4.2 (2, 3)
Date of Review for Declassification 4/16/2000
62-118045

Greenberg/Gray-7157
CONTINUED - OVER

~~SECRET~~

Memo from W. L. Baily to Mr. Boynton
Re: U.S. vs. W. MARK FELT, et al

This matter has been discussed with Deputy Assistant Director O'Malley of the Intelligence Division and he is in agreement that the defense should be briefed in this matter and it should be stressed to the defense the need to take whatever steps are necessary to prevent additional disclosure by the defense of this information. In line with these discussions with the Department and the Intelligence Division, the defense attorneys will be briefed regarding this matter. It should also be noted that the disclosure in the vault is pursuant to a supplemental protective order which places strong constraints on the defense regarding what use they may make of information received in the vault. These constraints, coupled with the briefing, should serve to minimize possible damage. At the time of the briefing, the defense will also be advised to protect foreign government information and other sensitive information they may have inadvertently received. (U)

RECOMMENDATION:

For information.

APPROVED *[Signature]*
Director *[Signature]*
Exec. AD-Inv. *[Signature]*
Exec. AD-Adm. *[Signature]*
Exec. AD-LES *[Signature]*

Adm. Serv. _____
Crim. Inv. _____
Ident. *[Signature]*
Intell. *[Signature]*
Laboratory _____

Legal Coun. *[Signature]*
Plan. & Insp. *[Signature]*
Rec. Mgnt. *[Signature]*
Tech. Serv. _____
Training _____
Public Affs. _____

AS THE BRIEFING OF DEFENSE COUNSEL IS
SET FOR 4:00 PM, 4/16/80.
AS

- 2 -

~~SECRET~~

Greenberg/Gray-7158

UNITED STATES GOVERNMENT

Memorandum

TO *R. G. Flanders* Mr. D. G. Flanders

DATE: 4/28/80

1 - Mr. J. H. Tierney

1 - Mr. D. R. Koman

FROM *D. R. Koman* Mr. D. R. Koman

SUBJECT: Gray, Miller, Felt Special
DOCUMENTS ORIGINATED MORE THAN
TWENTY YEARS AGO INVOLVING
CLASSIFIED INFORMATION

MARK W. Felt

An FBI document containing classified information and originated more than twenty years ago has been denied the requester. This document is listed in an appeal addendum, a copy of which is attached along with the staff comments of the Department Review Committee (DRC).

This document was presented to the DRC on 2/21/80 at which time the DRC unanimously determined that the 20-year old material is within the purview of the Attorney General's prior decisions on such material and classification was upheld.

Action: Disclosure Section should review this request in line with the above decision and insure that all appropriate material is processed for release to the requester.

Enclosure

62-118045-272X11

web/vp
WEB:vp
(3)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-24-2009 BY 65179 dmh/baw/sbs

OCT 3 1980

2
ENCLOSURE

24
50 OCT 23 1980



5010-108

62-118045

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

Greenberg/Gray-7159

GRAY, MILLER, FELT SP AL

COMPONENT:

FBI

ADDRESS:

DRC #: DDC.

Crim. Action #78-00179

FOIPA #: MR. TIERNEY

DOCUMENTS INVOLVED AND COMPONENT'S POSITION: *

ALL INFORMATION CONTAINED.

HEREIN IS UNCLASSIFIED

DATE 04-24-2009 BY 65179 dmh/baw/sbs

SEE ATTACHMENT

STAFF COMMENTS: * The document in this case, which is over twenty years old, appears to be appropriately characterized by the F.B.I. as it concerns intelligence methods directed against a subversive organization. Release of this information would cause at least identifiable damage to the national security.

It does not appear that the need to protect this information is outweighed by the public interest in disclosure.

DECISION OF THE DEPARTMENT REVIEW COMMITTEE:

1. DECLASSIFY:
2. UPHOLD CLASSIFICATION: All documents listed per attachment.
3. CONSULT WITH:
4. REGRADE TO:
5. OTHER:
6. COMMENTS: The Committee unanimously determined that the twenty-year old classified information is within the purview of the Attorney General's prior decisions on such material.

DATE OF MEETING:

2/21/80

ACTING

CHAIRMAN: JUDITH BARTNOFF

*THIS PORTION SHOULD BE UNCLASSIFIED IF POSSIBLE - IF NOT, USE CLASSIFIED ATTACHMENT. USE SUPPLEMENTAL PAGES IF THIS SPACE IS INADEQUATE.

62-118045-272x11
Greenberg/Gray-7160

Greenberg/Gray 7161

REVISED 6-1-78

**DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
INTERNAL ROUTING/ACTION SLIP**

TO	BLDG.	ROOM	STA#	NAME/TITLE/ORGANIZATION	TO	BLDG.	ROOM	STA#	NAME/TITLE/ORGANIZATION
	JEH	7010	235	Mr. McDERMOTT		JEH	5425	243	
	JEH	7110	235	Mr. ADAMS		JEH	5425	243	
						JEH	5425	243	
	JEH	11255	341	IDENTIFICATION DIV.					
	JEH	6012	234	ADMINISTRATIVE SERVICES		JEH	8988	245	
	JEH	5829	211	RECORDS MANAGEMENT		JEH	5442	243	
	JEH	4026	232	INTELLIGENCE DIV.		JEH	5224	243	
	JEH	5012	233	CRIMINAL INVESTIGATIVE		JEH	5434	243	
	JEH	3090	241	LABORATORY DIV.		JEH	5437	243	
	JEH	7159	213	TECHNICAL SERVICES		JEH	5431	243	
	JEH	7427	245	LEGAL COUNSEL		JEH	5448	243	
	JEH	7125	213	PLANNING AND INSPECTION					
	QUANTICO		152	TRAINING DIV.		JEH	5442	243	
									TOP SECRET CONTROL OFFICER
	JEH	5829	211						
	JEH	5829	211			JEH	6380	314	DCRU, FOI-PA
	JEH	6296	314			JEH	5447A	143	FILE REVIEW
						JEH	5648	222	FILING UNIT
	JEH	5644	211			JEH	1B327	152	MAIL ROOM
	JEH	7437	245			JEH	4543A	115	NAME SEARCHING
	JEH	5835	211			JEH	1B973	151	PRINTING UNIT
	JEH	6995	314			JEH	1835	253	PROPERTY
	JEH	6992	314			JEH	6658	215	READING ROOM
						JEH	4336C	111	ROUTING
	JEH	5841	211		JEH	6247	244	TELETYPE UNIT	
	JEH	7338	245	CIVIL LITIGATION UNIT					
				ATTN: Technical and Microphone Swank.					
	JEH	3658	231						
	JEH	11262	341						
	JEH	4859	224						
	JEH	4634	232						
	JEH	4042	242						
	JEH	6075	234						

Summation for FILE # 66-04

ITEMS LISTED ON ATTACHED CONTAIN SENSITIVE INFORMATION OVER 20 YEARS OLD AS FOR NEED CLASSIFICATION IS INFO, MUST BE PRESENTED TO DRC

APPROVAL OF CONTINUED CLASSIFICATION.

PLEASE FURNISH RESULTS TO SCRU, SPRU, OTHER Gray Miller Fall

- | | | |
|---|----------------------------------|---|
| <input type="checkbox"/> RECOMMENDATION/COMMENT | <input type="checkbox"/> LOG | <input type="checkbox"/> NECESSARY ACTION |
| <input type="checkbox"/> SEE REMARKS ON REVERSE | <input type="checkbox"/> FILE | <input type="checkbox"/> COORDINATE |
| <input type="checkbox"/> MAKE COPIES (NO.) | <input type="checkbox"/> SEE ME | <input type="checkbox"/> PER INQUIRY |
| <input type="checkbox"/> RETURN (BY) | <input type="checkbox"/> CALL ME | <input type="checkbox"/> INFORMATION |

FROM DOCUMENT CLASSIFICATION & REVIEW SECTION
RECORDS MANAGEMENT DIVISION

BLDG.
J. EDGAR HOOVER

ROOM
5437

PHONE
3567

DATE
11/17/80

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-24-2009 BY 65179 dmh/baw/sbs

b6
b7C

FORM DOJ-359A
8-1-74 (10)

REQUESTER:

PAGE _____

C. FBI records have been reviewed and the following portions of documents listed have been classified:

DOCUMENT DESCRIPTION	PAGE	PARAGRAPH	CLASSIFICATION	EXTENTION REFERENCE FCIM, II, 1-2.4.2
66-04-1566	3	1	<input checked="" type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) <input checked="" type="checkbox"/> _____ (3) _____ Other _____
			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 04-24-2009 BY 65179 dml/baw/sbs			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
Greenberg/Gray-7162			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____

REQUESTER:

PAGE _____

C. FBI records have been reviewed and the following portions of documents listed have been classified:

DOCUMENT DESCRIPTION	PAGE	PARAGRAPH	CLASSIFICATION	EXTENSION REFERENCE FCIM, II, 1-2.4.2
66-04-1566	3	1	<input checked="" type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) <input checked="" type="checkbox"/> _____ (3) _____ Other _____
			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 04-24-2009 BY 65179 dmh/baw/sbs			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
Greenberg/Gray-7163			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____



JUNE
~~PERSONAL AND CONFIDENTIAL~~

UNITED STATES DEPARTMENT OF JUSTICE NO NUMBER
FEDERAL BUREAU OF INVESTIGATION SAC LETTER Q
Series 1952

In Reply, Please Refer to
File No.

~~CONFIDENTIAL~~ April 24, 1952

WASHINGTON 25, D. C.

MEMO FOR MR. HOOVER

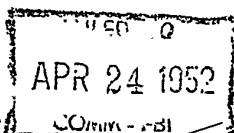
TOLSON	BROWN, B. C.	HENNRICH	PRICE
LADD	CALLAHAN	HOOD	RENNEBERGER
NICHOLS	CALLAN	HOLLOMAN	ROGERS
BEIMONT	CLEVELAND	HURLEY, L. P.	SCATTERDAY
CLEGG	CONRAD	JONES, M. A.	SIMON
CONNELLEY	CROSBY	KEAY	SIZOO
GLAVIN	DeLOACH	LAUGHLIN	STANLEY
HARBO	DOWNING	LEONARD	STEIN
ROSEN	EAMES	MALLEY	TAMM, Q.
TRACY	EDWARDS, H. L.	MASON, E. D.	TROTTER
BAUMGARDNER	EGAN	McGUIRE	VECHERY
BOWLES	FEENEY	MOHR	WHERRY
BRANIGAN	FLYNN	NAUGHTEN	WICK
	GEARTY, G.	PARSONS	WINTERROWD
		PENNINGTON	

RE: TECHNICAL AND MICROPHONE SURVEILLANCES

The Attorney General has advised that whenever the Department is giving serious consideration to the institution of criminal prosecution in any particular case, the Bureau, upon request, should advise the Department in detail concerning any telephone, microphone, or other technical surveillances employed by the Bureau or other Federal agencies (when known) as well as any other investigative techniques or procedures which would compromise or otherwise endanger a successful criminal prosecution. On the other hand, whenever the Bureau is aware or has reason to believe that the Department is seriously considering prosecution, the Bureau should promptly advise the Department of the existence of any of the above factors without waiting for a specific request from the Department. (u)

CASES INVOLVING USE OF CONFIDENTIAL TECHNIQUES

In view of the above, no case in which confidential techniques were employed as an investigative step should be presented to the United States Attorney for a decision relative to prosecution without prior authorization from the Bureau. Therefore, whenever such cases are developed to a point where they are ready for presentation to the United States Attorney for a decision relative to



CLASS. & EXT. BY 2842 PVS/ams 4/12/80
REASON-FCIM II, 1-2.4.2 2
DATE OF REVIEW 4/11/90

RECORDED - 82

25 MAY 2 1952

EX-32

Classified by 1929
Exempt from GDS, Category 2
Date of Declassification Indefinite

~~CONFIDENTIAL~~

Greenberg/Gray-7164

DECLASSIFICATION RETAINED BY FBI
EXEMPT FROM GDS, CATEGORY 2
DATE OF DECLASSIFICATION INDEFINITE

~~CONFIDENTIAL~~

As soon as the subpoena duces tecum is issued or a defense motion entertained which calls for the production of Bureau records pertaining to alleged technical or microphone surveillances, you should immediately take the necessary steps to preserve all original discs, tapes, records, etc., obtained from technical or microphone surveillances of the defendants as well as those obtained through continuing operations of other related installations (such as Communist headquarters) which could occasionally cover the defendant's conversations. There should be absolutely no further destruction of those discs, tapes, records, etc., until the Bureau authorizes you to do so. The Department has advised that the denial of a pretrial motion and the quashing of a subpoena requiring the production of certain discs, tapes, records, etc., based on evidence allegedly illegally obtained through wire tapping and other technical surveillances, would not represent a final and conclusive disposition of the matter and would not preclude the defendants from attempting to pursue a similar line of inquiry at any stage of the trial. In view of this, it is the opinion of the Department that it is both desirable and necessary that these records be preserved and retained not only during the pendency of the motions and subpoenas in question but also during the entire progress of the trial to which applicable. The Department will re-examine this entire matter at the conclusion of the trial in order to determine the desirability and propriety of reverting to the established procedure for the disposal of this material. The office of prosecution in each instance should take the necessary steps to advise the auxiliary offices of the above procedure. (U) (X) (C)

The above instructions apply not only to defendants but also to defense attorneys selected to represent a subject. Under no circumstances does the Bureau desire technical coverage on a defense attorney after the institution of prosecutive action and his selection or appointment to represent the defendant becomes known. Instructions in this regard were set forth in No Number SAC Letter J, dated October 19, 1951. (U) (C) (U)

The procedures outlined above must be thoroughly understood and followed. (U)

4/24/52
NO NUMBER SAC LETTER Q
Series 1952

- 3 -

~~CONFIDENTIAL~~

Greenberg/Gray-7165

Greenberg, Gray, 7166 ~~SECRET~~

OFFICE OF DIRECTOR
FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE

June 3, 1980

Judge,

Attached is a memorandum we received today from Phil Heymann to you on the U.S. v. Felt litigation. As you will recall, Mr. Heymann and you spoke last week about the District Court's dissatisfaction with the inability of the parties to resolve the problems relating to the use of documents at trial.

This memorandum from Mr. Heymann proposes that the two or three remaining key issues be presented to Judge Bryant at this time for a pre-trial resolution of those issues.

(S)

The other issues which are not as significant or critical as the issues that will be submitted for pre-trial resolution would not be raised with the court unless and until one of the defendants determined to offer the document into evidence at trial itself. While this approach is attractive because it allows for a more manageable solution to the current problems, it does have a risk. Should the defense want to use at trial one of the documents which had not been previously ruled upon by the court, then the government would have a fairly short time period within which to decide whether to object to the entry of the document into evidence.

Enc.
ALS:aga

~~SECRET~~
ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Mr. Boynton _____
Mr. Colwell _____
Mr. Joseph _____
Mr. Bailey _____
Mr. Boyce _____
Mr. Greenfield _____
Mr. Long _____
Mr. McKenzie _____
Mr. Mintz _____
Mr. Mullen _____
Mr. O'Malley _____
Mr. Otto _____
Mr. Stames _____
Mr. Young _____
Mr. Bruemmer _____
Mr. Hotis _____
Mr. Roin _____
Mr. Steel _____
Tele. Room _____
Miss Devine _____

b1

4-56

- OVER

7/1/8
FBI/DOJ

~~SECRET~~

In recognition of the fact that there may be a short time period for decision during the trial, Paul Daly and Joe Tierney plan to go over the documents which would fit in such a category and identify the five or six kinds of problems or questions which will likely arise and then submit those to you at this time in a memorandum for your review and consideration. This will allow for a more timely and considered evaluation of these issues and will provide them with guidance as to how they should react at trial should one of the documents be offered into evidence.

We have discussed this approach with Mr. Colwell, Mr. Mintz, and Mr. Finzel and the memorandum containing the issues will be submitted to Divisions 5 and 6 for their comments when it is completed.

John Neilds, Special Prosecutor, spoke with me today and indicated he would like to have you review the memo from Mr. Heymann today, if possible, so that he, Neilds, will be able to know if he can present this proposed resolution to the Court at the hearings scheduled for Wednesday morning.

Adrian *Adrian*

-Also, Tierney and Daly are still ^{WORKING ON} ~~discussing~~ the defense counsel's request to meet with you to talk about your possibly testifying at trial. They have communicated your thoughts to the attorneys but they are still indicating a desire to at least meet with you. If they continue to press for such a meeting, Mr. Mintz plans to meet with them to discuss the request. We will keep you advised.

Greenberg/Gray-7167

~~SECRET~~

-6

OFFICE OF DIRECTOR
FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE

Mr. Boynton _____
Mr. Colwell _____
Mr. Joseph _____
Mr. Bailey _____
Mr. Bayse _____
Mr. Greenleaf _____
Mr. Long _____
Mr. McKenzie _____
Mr. Mintz _____
Mr. Mullen _____
Mr. O'Malley _____
Mr. Otto _____
Mr. Stames _____
Mr. Young _____
Mr. Bruemmer _____
Mr. Hotis _____
Mr. Roin _____
Mr. Steel _____
Tele. Room _____
Miss Devine _____

Greenberg/C

UNITED STATES GOVERNMENT

Memorandum

TO : William H. Webster
Director
Federal Bureau of Investigation

FROM : Philip B. Heymann
Assistant Attorney General
Criminal Division

SUBJECT: United States v. Felt

DATE: May 30,

Exec AD Inv.	_____
Exec AD Adm.	_____
Exec AD LES	_____
Asst. Dir.:	
Adm. Servs.	_____
Crim. Inv.	_____
Ident.	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Plan. & Insp.	_____
Rec. Mgnt.	_____
Tech. Servs.	_____
Training	_____
Public Affs. Off.	_____
Telephone Rm.	_____
Director's Sec'y	_____

FBI/DOJ

Bill: This is the matter we discussed by letter

MARK W. Felt

The prosecution team and defendants in United States v. Felt have been engaged for the past six months in effort to resolve, pretrial, the national security problems posed by the defendants' use of various documents at trial. The approach taken, with respect to all of the documents except those taken from the Weatherman files, has been to attempt to reach agreement with the defendants on the redaction of sensitive material, usually accompanied by some substitution or stipulation. Those documents on which agreement could not be reached have been brought to the trial judge and disputes resolved by him. This process has covered information from both the FBI and other agencies, and decisions by the trial judge excluding trial use of information in the documents will govern oral testimony as well. The process has involved extraordinary expenditure of time and effort on the part of Government counsel, FBI personnel including Paul V. Daly and Joseph L. Tierney and the trial judge. With the process nearly complete, no issue has been resolved in a manner unacceptable to the government.

The documents from the Weatherman files presents a slightly different problem. There are more documents in this area than in the others combined, with over 1,200 designated by the defense for trial use. The documents will be used by the defense to show the criminal acts of the Weatherman, about which there is no dispute, and their connections to foreign powers, about which there is some dispute. It is likely that, in order to present their case effectively to the jury, the defense will use an expert or summary witness to present the "foreign influence" information and contentions. Undoubtedly, the defense will wish to punctuate their "foreign influence" contentions by showing or reading to the jury some documents from the Weatherman files. However, it seems inconceivable that they will actually show 1,200 documents or anything like that number to the jury or that the trial judge would permit them to do so. Government counsel and the

60 OCT 23 1980



Court have attempted to force the defense to designate the documents they will use. These efforts have been less than successful and will probably remain so until the defense actually faces an immovable trial date. Trial is now scheduled for July 7, 1980.

Government counsel have begun the process of seeking rulings from the Court on disputed redactions in documents in the Weatherman files. These documents pose a myriad number of unrelated classification issues, rather than a limited number of shared issues as in the other subject matter areas. The trial judge has shown some justifiable impatience with the process, and it threatens to be virtually interminable.

For these reasons, the members of the trial team are of the view that it is neither feasible nor sensible to seek final resolution at this time, through rulings of the Court, of every classification problem in each of the 1,200 plus documents. Rather, the appropriate step at this time is a thorough screening of the documents to isolate those in which the seriousness of the national security concern and the strength of the defense need for the information combine to make full pretrial treatment warranted. The other issues, largely consisting of live source protection problems, will be resolved when and if the document is actually used or when the summary witness is about to testify.

A substantial analysis of all of these documents has already been done. That analysis, together with the screening process about to be conducted, should pinpoint those national security problems that ought to be fully resolved prior to trial. From among the hundreds and hundreds of other documents some will undoubtedly emerge at trial as presenting national security issues. They will have been analyzed prior to trial by Government counsel, together with Special Agents Paul V. Daly and Joseph L. Tierney, and will be finally resolved with the court as they surface, within the time constraints of trial.

The indictment in this case is over two years old. The investigation is much older. We would all like to have this case resolved and behind us as soon as possible. The proposal outlined above appears to me to be the only sensible way to proceed under the circumstances. I hope you agree. Please let me know as soon as you can whether or not you concur. The trial attorneys will appear before the trial judge on Wednesday, June 4, 1980 and should have a proposal for the trial judge at that time.

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Bailey

FROM : Joseph L. Tierney

SUBJECT: U.S. VS. W. MARK FELT, ET AL.
DISCOVERY PROCEEDINGS
TRIAL PREPARATION (U)

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

~~SECRET~~

1 - Mr. Colwell
1 - Mr. Boynton
DATE: 4/14/80
1 - Mr. Steel (Enc. 3)
1 - Mr. Mullen
1 - Mr. Mintz
1 - Mr. O'Malley
1 - Mr. Bailey
1 - Mr. Daly
1 - Mr. Tierney

Exec AD Inv. _____
Exec AD Adm. _____
Exec AD LES _____
Asst. Dir.:
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

PURPOSE:

To record government motion and defense response
on issue of foreign involvement. (U)

DETAILS:

Attached is a copy of a government Memorandum of
Law and Exhibits in support of government motion "D," and a
copy of defense response to all government motions "A"
through "I." (U)

The government Exhibits reduce foreign involvement
in the prosecution view to 19 areas. The 19 summaries were
written by the prosecution in consultation with us. As
written, they represent a level of damage acceptable to
representatives of Divisions 5 and 6, given the extraordinary
nature of this case. (U)

The defense response includes a summary of foreign
involvement from the defense perspective ("Tab C") and
suggested admissions ("Tab E"). The summary is based upon
documents released during discovery under one or the other
of two highly restrictive protective orders. It may also
contain details obtained by the defense during interviews
of potential witnesses, particularly retired Agents and
Bureau officials. (U)

The defense summary and admissions were not written
in cooperation with us. It has therefore now been reviewed
by the Division 5 and 6 personnel who reviewed the prosecution's
summary. (U)

If the court adopts the defense summary the following
items of concern will arise:

JLT:tdp (10)
Enc. 3

~~SECRET~~

CONTINUED - OVER

Classified and Extended by 6080

Reason for Extension FCIM II, 1-2.4.2 (1,2,3)

Date of Review for Declassification 4/14/2000

EXEMPTED FROM AUTOMATIC

DECLASSIFICATION

AUTHORITY DERIVED FROM

FBI AUTOMATIC DECLASSIFICATION GUIDE

EXEMPTION CODE 25X(1,6)

DATE 04-24-2009

Greenberg/Gray-7171

FBI/DOJ

~~SECRET~~

Memorandum Joseph L. Tierney to Mr. Bailey
RE: U.S. VS. W. MARK FELT, ET AL.

1. Foreign sources may be identified: Italy, France, Mexico, and Canada. (Note pages 32 and 56).

(S) 2. Live sources of the FBI may be identified: SOLO Operation, [redacted] a Soviet recruitment in place, b1 live informants of WFO and LA, a Cuban double agent, and a commercial bank. (Note pages 32 and 42).

(S) 3. Intelligence methods of the FBI may be identified: [redacted] b1 [redacted] warrantless searches and microphones of the CPUSA, investigative criteria for individual Venceremos Brigade cases. (Note page 36 and Admission #24).

(U) 4. Other agencies may also be expected to have concerns: CIA (pages 20 and 54a), NSA (page 3, Admission #29), and the Metropolitan PD (pages 54 and 54a). (S)

A detailed assessment of the above potential damage would be premature. The prosecution will resist the expansion of detail which the defense summary represents. The actual damage assessment should be made on the basis of the court's ruling on the motion. It does appear now likely the defense will prevail on at least some of the motion. (U)

The hearing set for Monday, 4/14/80, has been postponed until Friday, 4/18/80, at the request of the prosecution. The trial date remains set at Monday, 5/12/80. (U)

RECOMMENDATION:

None. For information. (U)

APPROVED: *[Signature]*
Director _____
Exec. AD-Inv. _____
Exec. AD-Adm. *[Signature]*
Exec. AD-LES _____
Adm. Serv. _____
Crim. Inv. *[Signature]*
Ident. _____
Intell. *[Signature]*
Laboratory _____
Legal Coun. _____
Plan. & Insp. *[Signature]*
Rec. Mgnt. *[Signature]*
Tech. Servs. _____
Training _____
Public Affs. Off. _____

~~SECRET~~

- 2 -

Greenberg/Gray-7172

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Bailey

FROM : Joseph L. Tierney

SUBJECT: U.S. VS. W. MARK FELT, ET AL.
DISCOVERY PROCEEDINGS

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

1 - Mr. Steel (Enc.)
1 - Mr. Mullen (Enc.)
1 - Mr. Mintz (Enc.)
DATE: 3/25/80

1 - Mr. O'Malley (Enc.)
1 - Mr. Bailey (Enc.)
1 - Mr. Tierney (Enc.)

Exec AD Inv. _____
Exec AD Adm. _____
Exec AD LES _____
Asst. Dir.:
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

PURPOSE:

To record inadvertent disclosure by the Department during discovery of documents not referred to the FBI and other agencies, and to recommend no action be taken unless documents or information needed for use at trial.

DETAILS:

On 2/28/80 [redacted] who is employed by the attorneys for Mr. Felt, furnished a copy of a Departmental document obtained during discovery. The document is a 3/17/70 internal Department memorandum summarizing the results of an ELSUR check for a then-pending prosecution, apparently the [redacted] case. The document was stamped "~~SECRET~~" with no indication of a current classification review. A copy is attached (246B1).

b6
b7C

The document was unfamiliar and its disclosure represented an apparent departure from standard procedure of referring documents for consultation when they contain information of substance. John W. Niels, Jr., was advised of the disclosure which did not follow our discovery policy of protecting FCI targets of electronic surveillances and may also involve an NSA intercept. On 2/29/80 Francis J. Martin made available two bundles of disclosures by the Department for review.

Copies of those presenting possible problems were made and are attached.

Document 255I appears to be a CIA document; 256A and 257A and B contain information of joint NSA/FBI interest, with NSA having the overriding concern. In particular, 256A refers to a technique of acute concern to NSA.

Mr. Martin has been apprised of which documents are believed to present possible problems for the FBI, and which documents should have been referred to CIA (255I) and NSA (246B1, 256A, 257A and 257B). Mr. Martin was advised he should now notify CIA and NSA. He indicated he would do so.

SECRET MATERIAL ATTACHED

CONTINUED - OVER

Greenberg/Gray-7173

FBI/DOJ

ENCLOSURE

Memorandum Joseph L. Tierney to Mr. Bailey
RE: U.S. VS. W. MARK FELT, ET AL.
DISCOVERY PROCEEDINGS

The inadvertent disclosures are unfortunate, but are not believed to set precedents, even in this discovery operation. None present any immediate danger to FBI interests sufficient to require extreme actions such as their attempted retrieval from defense counsel. If specified for trial, however, several will be of great concern. The situation should not recur since Messrs. Nields and Martin are well aware of the need to consult with the originating agency on substantive disclosure and derivative classification issues before disclosing Departmental documents incorporating substantive information from the FBI or other agencies.

RECOMMENDATION:

That no action be taken now and the matter be addressed as a trial issue if it arises.

WJW
APPROVED:

CMH
Director _____
Excc. AD-Inv. *Jeg* _____
Exec. AD-Adm. *X* _____
Exec. AD-LES _____

Adm. Serv. _____
Crim. Inv. *PMH* _____
Ident. _____
Intell. *ESD/1A* _____
Laboratory _____

Legal Coun. *JTB* _____
Plan. & Insp. _____
Rec. Mgnt. *WUB* _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____

SK

~~CONFIDENTIAL~~

FBI

TRANSMIT VIA:

☐ Teletype
☐ Facsimile
☐ A I R T E L

PRECEDENCE:

☐ Immediate
☐ Priority
☐ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☐ UNCLAS

Date 4/23/80

TO : DIRECTOR, FBI (100-147952)
 ATTENTION: SUPERVISOR JOSEPH TIERNEY, FBIHQ,
 ROOM 4859, TELELIFT 224
 J. EDGAR HOOVER BUILDING

FROM : SAC, CHICAGO (100-19564)

~~CONFIDENTIAL~~SUBJECT: LEIBEL BERGMAN *U.S. vs W. Mark Lett* b1

Etal
Rescuing Proceedings

Re Bureau telephone call to Chicago 4/22/80.

Enclosed for the Bureau are four (4) serials from
 Chicago's file of captioned matter, all of which are classified
 "~~Top Secret~~". (C)

The following serials are enclosed:

100-19564-499, 101, 106, 112.

EXEMPTED FROM AUTOMATIC
 DECLASSIFICATION
 AUTHORITY DERIVED FROM:
 FBI AUTOMATIC DECLASSIFICATION GUIDE
 EXEMPTION CODE 25X(1,6)
 DATE 05-05-2009

~~TOP SECRET MATERIAL ATTACHED~~~~CONFIDENTIAL~~

Classified and Extended by 5868
 Reason for Extension FCIM, II, 1-2.4.2 (2 & 3)
 Date of Review for Declassification 4/23/80 NOV 24 1980

1 cc returned to eg
 2 - Bureau (Encl. 4)
 1 - Chicago
 PLT:flk
 (3)

encls returned to eg 11/17/80 flk

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED EXCEPT
 WHERE SHOWN OTHERWISE

62-118045

59 DEC 9 1980
 Approved: *for 108 149*

Transmitted _____ (Number) _____ (Time) Per _____

Greenberg/Gray-7175

FBI/DOJ

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

FBI

TRANSMIT VIA:

☐ Teletype
☐ Facsimile
☐ A I R T E L

PRECEDENCE:

☐ Immediate
☐ Priority
☐ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☐ UNCLAS

Date 4/23/80

TO : DIRECTOR, FBI (~~100-147952~~)
 ATTENTION: SUPERVISOR JOSEPH TIERNEY, FBIHQ,
 ROOM 4859, TELELIFT 224
 J. EDGAR HOOVER BUILDING

FROM : SAC, CHICAGO (100-19564) (SQUAD 12)

SUBJECT: ~~LEIBEL BERGMAN~~ *W. MARK FELT* ^{b1}

Re Bureau telephone call to Chicago 4/22/80.

A review of captioned file disclosed 208 serials bearing a date within the period 3/1/69 through 10/31/73.

Enclosed for the Bureau are the following serials:

100-19564-76 through 98

100
 102 - 105
 107 - 111
 113 - 151
 153 - 194
 194A
 195 - 261
 261A
 262 - 282

EXEMPTED FROM AUTOMATIC
 DECLASSIFICATION
 AUTHORITY DERIVED FROM:
 FBI AUTOMATIC DECLASSIFICATION GUIDE
 EXEMPTION CODE 25X(1,6)
 DATE 05-05-2009

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED EXCEPT
 WHERE SHOWN OTHERWISE

Serials 100-19564-99, 101, 106 and 112 have been furnished to the Bureau under separate cover.

Serial 100-19564-152 could not be located for review.

② - Bureau (Encl. 204) (~~SECRET MATERIAL ATTACHED~~)
 1 - Chicago
 PLT:flk
 (3)

*ice & encls
 returned to
 Cg 11/17/80
 flk*

4 flk

62-118045

APR 24 1980

5 DEC 9 1980

Transmitted _____ (Number)

(Time)

Per *FIVE*

Greenberg/Gray-7176

FBI/DOJ

~~CONFIDENTIAL~~

FBI

TRANSMIT VIA:

☐ Teletype
☐ Facsimile
☐ A I R T E L

PRECEDENCE:

☐ Immediate
☐ Priority
☐ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☐ UNCLAS

Date 5/16/80

TO : DIRECTOR, FBI (ATTENTION: SUPERVISOR J. TIERNEY,
 ROOM 4859, JEH)
 FROM : SAC, CHICAGO (197-25) (SQUAD 12)
 SUBJECT: U.S. VS. W. MARK FELT
 ET AL
 TRIAL PREPARATION

Re Butel dated 5/7/80, and Chicago airtel dated
 5/8/80.

Enclosed for FBIHQ is one xerox copy of 100-40903-
 Sub J which serials were not previously sent with referenced
 Chicago airtel.

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 05-05-2009 BY 65179 dmh/baw/sbs

2 - Bureau (Encl. 3)
 2 - Chicago
 (1 - 100-40903 Sub J)
 RDS:flk
 (4)

ENCLOSURE

*Enclosures removed.
 Will be destroyed
 when no longer needed
 SK*

62-118045-272X17

11-29
 5 MAY 19 1980

59 DEC 9 1980

62-118045

Approved: *JOE / ns 149*

Transmitted

(Number)

Greenberg/Gray-7177er

(Time)

FBI

TRANSMIT VIA:

☐ Teletype
☐ Facsimile
☒ A I R T E L

PRECEDENCE:

☐ Immediate
☐ Priority
☐ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☐ UNCLAS

Date 5/8/80

TO : DIRECTOR, FBI (ATTENTION: SUPERVISOR J. TIERNEY, ROOM 4859,
 JEH)
 FROM : SAC, CHICAGO (197-25) (SQUAD 12)
 SUBJECT: U.S. VS. W. MARK FELT
 ET AL
 TRIAL PREPARATION

Re Bureau tel dated 5/7/80.

Enclosed for FBIHQ is one xerox copy of every serial
 in Chicago file 100-40903 Sub J. No materials were omitted
 and decision to omit serials being left to the discretion of
 the Bureau.

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 04-24-2009 BY 65179 dmh/baw/sbs

10
 2 - Bureau (Encl. 814)
 2 - Chicago
 (1 - 100-40903)
 RDS:flk 503-J
 (4)

ENCLOSURE
 Enclosure to be removed & destroyed when no longer needed per

EX-101 24 1990

Approved: [Signature]Transmitted 149

(Number)

(Time)

Per [Signature]

Greenberg/Gray-7178

FBI/DOJ

FBI

TRANSMIT VIA:

☐ Teletype
☐ Facsimile
☒ AIRTEL

PRECEDENCE:

☐ Immediate
☐ Priority
☐ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☐ UNCLAS

~~CONFIDENTIAL~~

Date 4/24/80

TO: DIRECTOR, FBI
 ATTN: SUPERVISOR JOSEPH TIERNEY, FBIHQ
 ROOM 4859, TELELIFT 224,
 J. EDGAR HOOVER BUILDING

FROM: SAC, CHICAGO (197-25)

U.S. vs. W. MARK FELT ET AL;
 DISCOVERY PROCEEDING

EXEMPTED FROM AUTOMATIC
 DECLASSIFICATION
 AUTHORITY DERIVED FROM:
 FBI AUTOMATIC DECLASSIFICATION GUIDE
 EXEMPTION CODE 25X(1,6)
 DATE 05-05-2009

Re Bureau teletype dated 4/23/80, Chicago airtels (2)
 dated 4/23/80, captioned "Leibel Bergman, [REDACTED] (C)

Enclosed for the Bureau are serials 36, 37 and 38 of
 Chicago file 100-19564-Sub 1 captioned "Leibel Bergman, [REDACTED]".
 Also enclosed for the Bureau are the logs of 3/1/69, and 3/2/69,
 for SF 3117-S* which are maintained in CG 100-19564-Sub 1.

A Xeroxed copy of each of the above serials is being
 maintained in the Chicago file.

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED EXCEPT
 WHERE SHOWN OTHERWISE

ice & encls. returned to CG 11/17/80
 ② - Bureau (encl. 5)
 2 - Chicago
 (1-100-19564-Sub 1)
 PLT/apt
 (4)

62-118045

Approved: *[Signature]*

Transmitted _____

(Number)

(Time)

Per _____

59 DEC 9 1980

149

~~CONFIDENTIAL~~

Greenberg/Gray-7179

FBI/DOJ

FBI

TRANSMIT VIA:

☐ Teletype
☐ Facsimile
☒ AIRTEL

PRECEDENCE:

☐ Immediate
☐ Priority
☐ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☐ UNCLAS

Date 4/24/80

TO: DIRECTOR, FBI
 (ATTN: SA JOSEPH TIERNEY, RM 4859,
 JEH; TEL LIFT 224)

FROM: SAC, NEWARK (62-4106)

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 04-24-2009 BY 65179 dmh/baw/sbs

SUBJECT: U.S. vs. W. MARK FELT,
 ET AL
 DISCOVERY PROCEEDINGS

RE: Bureau teletype dated 4/23/80

Enclosed for the Bureau are the following original
 Newark main files, subject of which is LEIBEL BERGMAN:

1.) Serials 29 - 477 of 105-23027, covering pertinent
 period of 3/1/69 thru 10/31/69, (Serials 60 and 61 are excluded,
 as they are dated 3/26/68 and 6/21/68 respectively) of subject's
 main file. (xeroxed copies retained Newark)

2.) Complete volume 105-23027 Sub 1. (xerox copy
 maintained Newark)

3.) Complete volume 105-23027 Sub 2 and Sub 2, Vol. 2.
 (duplicate copy maintained in Newark as 105-23027 Sub 3 Vol. 1 and
 2)

10
 3- Bureau (Enc. 7) *encls. returned to Newark 4/17/80*
 (1- package copy)
 2- Newark (1- 105-23027)
 DSJ/pab
 (5)

Greenberg/Gray-7180

Approved: *Rm/Ry/49*

Transmitted

Per

59 DEC 9 1980

(Number)

(Time)

☆ U.S. GOVERNMENT PRINTING OFFICE: 1980-305-750/5402

4.) Complete volume 105-23027 Sub 4. (xerox copy maintained Newark)

5.) Complete volume 105-23027 Sub 5. (duplicate copy maintained in Newark as 105-23027 Sub 6)

6.) Complete 105-23027 - 1A - 36. (xerox copies maintained in Newark)

7.) Sub 1A, Exhibits 3 - 41 (exhibit 19 is missing). (xerox copy maintained in Newark)

For information of the Bureau, pen register tapes, magnetic tapes and index not forwarded to the Bureau per telephone call with ASAC WRIGHT, Newark Division.

Also for information of the Bureau, Newark maintains a main file on [redacted] Newark file 105-37220.

b6

b7C

UNITED STATES GOVERNMENT

Memorandum

TO : The Director

DATE: 6-9-80

FROM : Legal Counsel *[Signature]*

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-24-2009 BY 65179 dmh/baw/sbs

SUBJECT: *W. Mark O*
U.S. v. FELT AND MILLER
#78-179 Cr.
U.S.D.C., D.C.

Exec AD Inv. _____
Exec AD Adm. _____
Exec AD LES _____
Asst. Dir.:
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

FBI/DOJ

On June 9, 1980, you met with Thomas A. Kennelly, Howard Epstein, and Brian Gettings concerning captioned prosecution. At the conclusion of your meeting Messrs. Kennelly, Epstein, and Gettings met with me concerning the prosecution. At the conclusion of my meeting with them, Mr. Kennelly presented me with a subpoena calling upon you to testify in the case July 7, 1980, at 10 a.m. He also presented me with a subpoena calling for my testimony in that case on July 7, 1980, at 10 a.m.

Mr. Kennelly restated the assurances previously given to you that the July 7 date is the date indicated as the beginning of the prosecution and that the actual date of your appearance as a witness would be much later, probably the first of August. *[Signature]*

At 3:47 p.m., June 9, 1980, I called John Nields, the Special Counsel, and advised him of the receipt of the two subpoenas. He requested me to send him copies of them and to furnish him a copy of the January 2, 1979, memorandum from the Deputy Attorney General to you regarding interviews of potential witnesses by defense counsel in this case. I have complied with his request.

RECOMMENDATION:

For information.

6 JUN 12 1980

1 - Mr. Mintz

APPROVED *[Signature]*

Director _____
Exec. AD-Inv. _____
Exec. AD-Adm. _____
Exec. AD-LES _____

Adm. Serv. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____

Legal Coun. *[Signature]*
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____



JAM:bpr
(2)

5010-110

4 JUN 24 1980 Buy U.S. Savings Bonds Regularly on Green Stamps

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-24-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-7183

ENCLOSURE



62-118045-274

Subpoena to Testify

Cr. Form No. 20 (Rev. 5-68)

United States District Court

FOR THE
DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

Holt and Miller

To William H. Webster

No. 78-179 Cr.

You are hereby commanded to appear in the United States District Court for the
District of Columbia at 3rd St. & Constitution Ave., / in the city of
Washington, D. C. on the 7th day of July 1980 at 10 o'clock A.M. to
testify in the above-entitled case.

This subpoena is issued on application of the defendants.

July 9, 1980.
F. A. Kennedy
Attorney for *with*
1000 Conn. Ave. N.W.
Address 872-0700

JAMES F. DAVEY

By *Robert L. Lane* Clerk.
Deputy Clerk.

RETURN

Received this subpoena at Wash. D.C. on *July 9, 1980*
and on *July 9, 1980* at *FBI HQ*
within named *James Earl Ray* I served it on the
by delivering a copy to *Marty* and tendering to the fee for one day's attendance and the mileage
allowed by law. *Plane and mileage waived.*

Service Fees

Travel _____ \$

Services _____

Total _____ \$

By _____

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-24-2009 BY 65179 dmh/baw/sbs

¹ Insert "United States," or "defendant" as the case may be.² Fees and mileage need not be tendered to the witness upon service of a subpoena issued in behalf of the United States or an officer or agency thereof. 28 USC 1825, or on behalf of a defendant who is financially unable to pay such costs (Rule 17(b), Federal Rules Criminal Procedure).CO-294
Rev. 4/78

memo from Asst Director - Legal Council
to John Nields 6-9-80 JAM:lv

ENCLOSURE

OPTIONAL FORM NO. 10
JULY 1973 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-24-2009 BY 65179 dmh/baw/sbs

Memorandum

TO : Director
Federal Bureau of Investigation

FROM : Benjamin R. Civiletti *BR*
Deputy Attorney General

SUBJECT: Potential Witnesses in
United States v. Gray, et al

DATE: January 2, 1979

Former Acting Director L. Patrick Gray III and former Bureau officials W. Mark Felt and Edward S. Miller are scheduled to go to trial in late January 1979 on a charge of conspiracy to violate the civil rights of citizens. In the coming weeks both government and defense counsel will be communicating with present and former Bureau employees who are potential witnesses at trial for the purpose of pretrial interviews. All such present and former Bureau employees are hereby authorized to participate in these interviews pursuant to the provisions of Title 28, Code of Federal Regulations, Section 16.21 (which require that they seek the approval of the Justice Department prior to submitting to such an interview).

Both government and defense counsel have been granted security clearances and, accordingly, present and former employees may discuss with them classified information, up to and including Top Secret information. It is likely that at least some interviews on behalf of the defense will be conducted by one or more retired Bureau officials who are working with defense counsel. These retired Bureau officials have the same security clearances as defense counsel and any interviews with them should be considered as interviews with defense counsel.

During the course of any such interviews present and former Bureau employees are free to discuss any aspect of their Bureau work which relate to this case. They must, of course, proceed with sound discretion to ensure that they do not in any way compromise Bureau sources. Accordingly, they should not provide information that would identify (a) confidential sources of the Bureau, or (b) the targets of Bureau technical surveillances or of other sophisticated techniques used by the Bureau. However, all such targets in the Weatherman investigation may, of course, be identified.

62-118045-274

ENCLOSURE



5010-110

*memo from Asst Dir - Legal Counsel to
Johnnie, 6-9-80 JAM:bn*

g-m [signature]

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

-2-

Any inquiries concerning these matters should be handled by your Legal Counsel Division. In order to ensure that there is no inadvertent interference with the rights of the defendants in this case, you should not inform the Department of the identity of any potential witnesses who are contacted by defense counsel.

If there are any questions about this authorization or the method of implementation, please communicate with me.

cc: Paul Daly
FBI

Greenberg/Gray-7186

FEDERAL GOVERNMENT

Mr. John Nields, Special Counsel
Room 2304
Main Justice Building

June 9, 1980

Assistant Director - Legal Counsel
Federal Bureau of Investigation
U.S. v. FELT AND MILLER
#78-179 Cr.
U.S.D.C., D.C.

1 - [redacted] b6
1 - Mr. Steel b7C
1 - Mr. Mintz

On June 9, 1980, I accepted service of a subpoena on behalf of the Director to testify in the captioned prosecution on July 7, 1980, at 10 a.m. I also accepted a subpoena addressed to me to testify in the same case on July 7, 1980. Copies of these subpoenas are attached.

At 3:47 p.m. on June 9, 1980, I advised you by telephone of the receipt of these subpoenas. You requested me to forward copies and to furnish you with a copy of a memorandum dated January 2, 1979, from then Deputy Attorney General Civiletti to the Director, FBI, concerning witness interviews by defense counsel. A copy of that memorandum is attached.

Enclosures - 3

ENCLOSURE

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-24-2009 BY 65179 dmh/baw/sbs

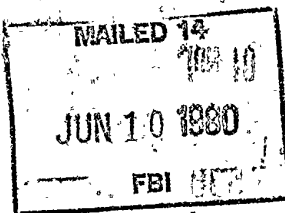
JAM:bpr
(6)

APPROVED:

Director _____
Exec. AD-Inv. _____
Exec. AD-Adm. _____
Exec. AD-LES _____

Adm. Serv. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____

Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____



Exec AD Inv. _____
Exec AD Adm. _____
Exec AD LES _____
Asst. Dir.: _____
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

MAIL ROOM ☒

57 JUN 26 1980

Greenberg/Gray-7187

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-24-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-7188

ENCLOSURE

547
62-118045-275X1

GRAY, FELT, MILLER SPECIAL

COMPONENT:

F.B.I.

ADDRESS:

DRC #:

FOIPA #:

INITIAL

DOCUMENTS INVOLVED AND COMPONENT'S POSITION: *

SEE ATTACHMENTS

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 04-24-2009 BY 65179 dmh/baw/sbs

STAFF COMMENTS: *

The documents in this case, which are over twenty years old, appear to be appropriately characterized by the F.B.I. as they concern intelligence methods directed against members of a subversive organization. Release of this information would cause at least identifiable damage to the national security.

It does not appear that the need to protect this information is outweighed by the public interest in disclosure.

DECISION OF THE DEPARTMENT REVIEW COMMITTEE:

1. DECLASSIFY:
2. UPHOLD CLASSIFICATION: All documents listed per attachment.
3. CONSULT WITH:
4. REGRADE TO:
5. OTHER: The Committee unanimously determined that the twenty-year old classified information was within the purview of the Attorney
6. COMMENTS: General's precedents.

DATE OF MEETING: May 8, 1980

CHAIRMAN: Leon Ulman

*THIS PORTION SHOULD BE UNCLASSIFIED IF POSSIBLE - IF NOT, USE CLASSIFIED ATTACHMENT. USE SUPPLEMENTAL PAGES IF THIS SPACE IS INADEQUATE.

Greenberg/Gray-7189

Document # 1

100-36670-124

AIR-TEL

FEDERAL BUREAU OF INVESTIGATION

~~CONFIDENTIAL~~

UNITED STATES DEPARTMENT OF JUSTICE

NY, NY; 3/7/55

JUNE

Transmit the following Teletype message to: BUREAU...JUNE...URGENT

JUNE. [REDACTED] WA; IS - C. SUBJECT NO LONGER RESIDING AT [REDACTED]

(U) STREET, BROOKLYN, NY. SERVICES OF NY-1406-S DISCONTINUED 12 NOON, 3/7/55. (X)

b6
b7C

noted

KELLY

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-24-2009

③ - BUREAU (100-36670) (REGISTERED MAIL)

Mr. Belmont

CLASS. & EXT. BY 9803 PAB/LS
REASON-FCIM II, 1-2.4.2
DATE OF REVIEW 5/3/79
APPROPRIATE AGENCIES AND FIELD OFFICES
ADVISED BY ROUTING SLIP ON 5-3 29 306

RECORDED-45

EX-125

100-36670-73
17 MAR 15 1955

TJM:JH (#7-1)
100-16854-Sub 4

Greenberg/Gra 7190

Approved: *[Signature]*

Special Agent in Charge

Sent

M

Per

~~CONFIDENTIAL~~

3-21-55
lar pc

Document # 2

FD-36

AIR-TEL
FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

~~CONFIDENTIAL~~

NY, NY; 12/27/54

Transmit the following Teletype message to: BUREAU...JUNE...URGENT

JUNE. [REDACTED] IS - C. RENYAIRTEL, 12/23/54. TECHNICAL SURVEILLANCE

ASSIGNED SYMBOL NUMBER NY-1405-3. ~~CONF. INFL.~~ TECHNICAL SURVEILLANCE
b6
b7C

(U) SYMBOL NUMBER NY-1406-S.

Mr. Tolson	_____
Mr. Boardman	_____
Mr. Nichols	_____
Mr. Belmont	_____
Mr. Harbo	_____
Mr. Mohr	_____
Mr. Parsons	_____
Mr. Rosen	_____
Mr. Tamm	_____
Mr. Winterrowd	_____
Miss Gandy	_____

1243

KELLY

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-24-2009

(3) - BUREAU (100-36670) (REGISTERED MAIL)

Mr. Belmont

CLASS. & EXT. BY
REASON-FCIM II, 1-2.4.2
DATE OF REVIEW

APPROPRIATE AGENCIES AND FIELD OFFICES
ADVISED BY ROUTING SLIP ON

RECORDED - 72
INDEXED - 72

ARM:JH (#7-1)
100-16854-Sub 4

Greenberg/Gray-7191

Approved: _____

Special Agent in Charge

Sent _____

M

Per _____

~~CONFIDENTIAL~~

Document #3

FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

~~CONFIDENTIAL~~

AIR-TEL

NEW YORK, N.Y.
DECEMBER 23, 1954

Transmit the following Teletype message to: BUREAU

JUNE

TECHNICAL SURVEILLANCE

RALPH GLICK. IS - C. REURAIRTEL DECEMBER 14 LAST: TESOR

INSTALLED 1:00 PM, 12/23/54, ON [REDACTED] RESIDING AT [REDACTED]
STREET, BROOKLYN, NY, TELEPHONE MAIN 2-4167. RESULTS WILL BE

(U) REPORTED UNDER SYMBOL NUMBER NY-1405-S*

KELLY

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-24-2009

(3) - Bureau (100-36670)

FJS:RAA
100-16854 Sub 4

APPROPRIATE AGENCIES AND FIELD OFFICES
ADVISED BY ROUTING SLIP ON 5-3-79 cal.

CLASS. & EXT. BY
REASON-FCIM II, 1-2.4.2
DATE OF REVIEW 5/3/89

Mr. Belmont

RECORDED-27

INDEXED - 21

100-36670-70

NO DEC 27 1954

30

REC'D

Approved K. [Signature]
Special Agent in Charge

Sent Greenberg M Per Gray-7192

Document # 4

~~SECRET~~

cc - Mr. Boardman
Mr. Belmont
Mr. Tolson
Mr. Donohue
Mr. Baumgardner
Mr. Doyle

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-24-2009

~~CONFIDENTIAL~~

December 10, 1954

100-36670-69

RECORDED - 6

PERSONAL AND ~~CONFIDENTIAL~~

JUNE

MEMORANDUM FOR THE ATTORNEY GENERAL

RE: [REDACTED] (U) b6
INTERNAL SECURITY - C b7C

EX-125

(U) Information has recently been received from a source of known reliability that [REDACTED] is active as New York [REDACTED] for the Communist Party and is known to be in contact with New York State and National underground leaders. [REDACTED] is residing at [REDACTED] b6 b7C Street, Brooklyn, New York, occupying a room in a residence owned by [REDACTED]. (X)

(U) It is felt that a technical surveillance on the telephone at this residence, Main 2-4167, would materially assist in the investigation of the Communist Party underground since [REDACTED] is believed to utilize this phone in b6 b7C arranging his contacts with Communist Party leaders and in making underground meetings. [REDACTED] who is supplying [REDACTED] present hideout, has been identified as a Communist Party member from five to ten years' standing and is a known contact of other underground leaders in the New York City area. (X)

(U) Accordingly, authority is requested to install a technical surveillance on the telephone at the residence b6 b7C occupied by [REDACTED] Main 2-4167, or at any other address to which [REDACTED] may move. (X)

APPROPRIATE AGENCIES AND FIELD OFFICES ADVISED BY ROUTING SLIP ON 5-3-74 sub

Respectfully,

John Edgar Hoover
Director

Tolson _____
Boardman _____
Nichols _____
Belmont _____
Harbo _____
Mohr _____
Parsons _____
Rosen _____
Tamm _____
 Sizoo _____
Winterrowd _____
Tele. Room _____
Holloman _____
Gandy _____

WFD:dlf alj
(9)

Approved: _____

SENT FROM D. O.	
TIME	pm
DATE	12/13/54
BY	70

~~CONFIDENTIAL~~

Greenberg/Gray-7193

UNRECORDED COPY FILED IN 100-36670-69

RECEIVED READING ROOM
DEC 10 9 09 PM '54
FBI
U.S. DEPT. OF JUSTICE

Document # 5

Office Memorandum • UNITED STATES GOVERNMENT

~~CONFIDENTIAL~~

TO : Director, FBI

DATE: 12/3/54

JUNE

FROM : SAC, New York (100-16854-Sub 4)

SUBJECT: RECOMMENDATION FOR INSTALLATION OF TECHNICAL OR MICROPHONE SURVEILLANCE

RE: Title [REDACTED]

b6
b7CDECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-24-2009Character of Case IS - C
Field Office NEW YORK
Symbol Number
Type of Surveillance (Technical ~~xxx~~
~~Microphone~~)

1. Name and address of subject:

[REDACTED]

Brooklyn, NY

b6
b7C

2. Location of technical operation:

Sutec

3. Other technical surveillances on same subject:

None

(U)

4. Cost and manpower involved:

Cost not known until installed.
Manpower - 13.48 hours per weekAPPROPRIATE AGENCIES AND FIELD OFFICES
ADVISED BY ROUTING SLIP ON 5-3-79 gskCLASS. & EXT. BY 9803 PPS/AB
REASON-FCIM II, 1-2.4.2
DATE OF REVIEW 5/3/795. Adequacy of security:
Believed to be adequate.SPECIAL DELIVERY

TJM:JH

12-29-54
ho on

RECORDED - 6

ENCLOSURE

INDEXED - 6

12 DEC 6 1954

Greenberg/Gray-7194

~~CONFIDENTIAL~~b6
b7C

EXP. PROC.

DEC 6 1954

UNRECORDED COPY FILED 100-47471

~~CONFIDENTIAL~~

6. Type of case involved:

INTERNAL SECURITY - C

7. Connection or status of subject in the case:

Subject, [] resides with [] and receives messages through [] telephone

b6
b7C

8. Specific information being sought:

CP underground contacts of []

b6
b7C

9. Reasons for believing the specific information will be obtained by the technical surveillance:

NY-1239-S* has advised that [] has received telephonic messages through the [].

b6
b7C

10. Importance of case and subject:

See #7, 8, and 9 above.

~~CONFIDENTIAL~~ Greenberg Gray-7195

~~CONFIDENTIAL~~

11. Possibilities of obtaining desired information by other means (Explain in detail):

There is no feasible way of learning who is calling [] through the [] other than a tesur. When NY-1239-S* does furnish information as to contacts of [] this information is from one month to two years old in practically all cases.

b6
b7C

(U)

~~(C)~~

12. Risks of detection involved:

Negligible to none

13. Probable length of technical surveillance:

Indefinite

14. Request made for technical surveillance by any outside agency (name specific official, title and agency):

None known

~~CONFIDENTIAL~~ 7196

15. Remarks:

~~CONFIDENTIAL~~
~~DATE 11/1/77~~

16. Recommendation of Assistant Director:

17. Recommendation of Assistants to the Director:

~~CONFIDENTIAL~~
~~DATE 11/1/77~~

~~CONFIDENTIAL~~

Document # 6

~~CONFIDENTIAL~~

Subject

b6
b7C

INTERNAL SECURITY - C

(U) This serial, the original memorandum from the FBI to the Attorney General dated 12/10/54, which was returned to the Bureau signed by the Attorney General authorizing FBI to conduct electronic surveillance, has been permanently removed for retention in the National Security Electronic Surveillance File per memorandum T. J. Smith to Mr. E. S. Miller dated 7-13-73. See 62-115687-1 for details and where maintained. (X)

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-24-2009

9808 RDD/AB
5/3/73
1-2.4.2
5/3/84
CLASS. & EXT. BY
REASON-FCIM II, 1-2.4.2
DATE OF REVIEW

Removed By 343

Date 12/5/73

Complete File and Serial Number 100-36670-68

~~CONFIDENTIAL~~

Greenberg/Gray-7198

Document # 7

~~CONFIDENTIAL~~



UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to
File No.

WASHINGTON 25, D. C.
December 10, 1954

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-24-2009

PERSONAL AND ~~CONFIDENTIAL~~

Downgrade to Conf 1-2-4-2-5-13-21-22-23-24-25-26-27-28-29-30-31-32-33-34-35-36-37-38-39-40-41-42-43-44-45-46-47-48-49-50-51-52-53-54-55-56-57-58-59-60-61-62-63-64-65-66-67-68-69-70-71-72-73-74-75-76-77-78-79-80-81-82-83-84-85-86-87-88-89-90-91-92-93-94-95-96-97-98-99-100
CLASS. & EXT. BY
REASON-FCIM II, 1-2.4.2
DATE OF REVIEW 5/2/21

MEMORANDUM FOR THE ATTORNEY GENERAL

INTERNAL SECURITY - C

b6
b7C

(U) Information has recently been received from a source of known reliability that [redacted] is active as New York [redacted] for the Communist Party and is known to be in contact with New York State and National underground leaders. [redacted] is residing at [redacted] Street, Brooklyn, New York, occupying a room in a residence owned by [redacted].

(U) It is felt that a technical surveillance on the telephone at this residence, MAin 2-4167, would materially assist in the investigation of the Communist Party underground since [redacted] is believed to utilize this phone in arranging his contacts with Communist Party leaders and in making underground meetings. [redacted] who is supplying [redacted] present hideout, has been identified as a Communist Party member from five to ten years' standing and is a known contact of other underground leaders in the New York City area.

(U) Accordingly, authority is requested to install a technical surveillance on the telephone at the residence occupied by [redacted] MAin 2-4167, or at any other address to which [redacted] may move.

Respectfully,

J. Edgar Hoover
John Edgar Hoover
Director

Approved: *763*
Date: *12-13-54*

RECORDED 13

EX-128

7 DEC 17 1954

~~CONFIDENTIAL~~

Greenberg/Gray-7200

APPROPRIATE AGENCIES AND FIELD OFFICES
ADVISED BY ROUTING SLIP ON 5-3-29

UNRECORDED COPY FILED IN 100-36678-68

Document # 8

Office Memorandum • UNITED STATES GOVERNMENT

TO : THE DIRECTOR

~~CONFIDENTIAL~~

DATE: December 9, 1954

FROM : L. V. BOARDMAN

b6
b7CSUBJECT:
INTERNAL SECURITY - CCLASS. & EXT. BY
REASON-FCIM II, 1-2.4.2
DATE OF REVIEWJUNE 1954
9803/100/123
5/3/79

Tolson	_____
Boardman	_____
Nichols	_____
Belmont	_____
Harbo	_____
Mohr	_____
Parsons	_____
Rosen	_____
Tamm	_____
Sizoo	_____
Winterrowd	_____
Tele. Room	_____
Holloman	_____
Gandy	_____

Reference is made to the attached FD-142 from SAC, New York, dated December 3, 1954, requesting authority for the installation of a technical surveillance at the residence currently occupied by Brooklyn, New York. It will be

(U) recalled that is one of the principal figures in the Communist Party security apparatus for the State of New York and is known to be in contact with ranking National Communist Party underground leaders. This telephone is listed to at the above address and designated Brooklyn telephone number, Main 2-4167. (X)

(U) is a contact of leading Communist Party underground functionaries in the New York area, and reportedly has been a member of the Communist Party for five to ten years. (X)

(U) SAC, New York, has indicated that a survey for the installation of this technical surveillance has been completed and that authority was requested to effect its installation. If authorized, a leased-line letter will be necessary indicating the address as Brooklyn, New York. (X)

(U) It will be recalled that an anonymous source, NY 1239-S*, is currently in operation at residence which is a room located in the building under the control of as landlord. This anonymous source is extremely valuable and since is believed to be using telephone, this technical surveillance, if authorized, would contribute materially to the security attendant upon the operation of this anonymous source. In addition, it would provide valuable intelligence data concerning contacts and meetings with other underground leaders in the New York City area. (X)

OK
12-9-54
In view of the foregoing, it appears that the request of SAC, New York, is fully justified under the circumstances outlined herein and that if authorized, this technical surveillance should produce extremely valuable data relating to the Communist Party underground. (X) (U)

Attachments (2)

WFD:d1f

(7)

cc - Mr. Boardman

Mr. Belmont

Mr. Donohue

Mr. Baumgardner

Mr. Doyle

EX-130

~~CONFIDENTIAL~~

INDEXED - 24

7 DEC 16 1954

Greenberg/Gray-7201

RECOMMENDATION:

~~CONFIDENTIAL~~

(U) It is recommended that the attached memorandum to the Attorney General requesting authority to effect a technical installation on the telephone utilized by [redacted] at the residence of [redacted] Brooklyn, New York, or to any other address to which [redacted] might move, be approved. (C)

b6
b7C

V. JH 12-9

Greenberg/Gray-7202

~~CONFIDENTIAL~~

OK G.B.S.

7/23/73
WLB

Document # 9

AIR-TEL
FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-24-2009

NY, NY; 12/2/54

JUN

Transmit the following Teletype message to: BUREAU...JUNE...URGENT

JUNE. [REDACTED] IS - C. REBUTEL, 11/16/54, AUTHORIZING SURVEY FOR
TECHNICAL SURVEILLANCE
INSTALLATION OF TESUR ON RESIDENCE OF [REDACTED]

BROOKLYN, NY, TELEPHONE MAIN 2-4167. SURVEY COMPLETED. SECURITY ASSURED.
TECHNICAL SURVEILLANCE
AUTHORITY REQUESTED TO INSTALL TESUR. LEASED LINE LETTER SHOULD SHOW

ADDRESS [REDACTED] BROOKLYN, NY. FORM FD-142 FOLLOWS. THE FOLLOWING
IS SECURITY INFORMATION ON [REDACTED] SUBJECT OF NY FILE #100-121319:

RELIABLE INFORMANTS ADVISED: ONE [REDACTED] KNOWN TO [REDACTED]
LEADING CP UNDERGROUND FUNCTIONARY, NY AREA, AUGUST, 1952; ONE [REDACTED]
MEMBER OF CP FIVE OR TEN YEARS; [REDACTED] ACQUAINTED WITH [REDACTED]
MEMBER OF BRONX COUNTY CP, JUNE, 1953; SUBSCRIBED TO "THE WORKER", SEPTEMBER,

1951. [REDACTED] LEASED ROOMS TO [REDACTED] A MEMBER OF CP UNDERGROUND, NYC, b6 b7C

1952. [REDACTED] REGISTERED ALP, 1950 TO 1953. RELIABLE INFORMANTS ADVISED

[REDACTED] PETITIONED GOVERNOR DEWEY IN BEHALF OF MORRIS U. SCHAPPES, CP
MEMBER CONVICTED OF PERJURY, JUNE, 1941; ASSOCIATED WITH OR SYMPATHIZED
WITH CP, JUNE, 1942; MEETING OF TEACHER GROUP OF MAGAZINE "EQUALITY" HELD
IN APARTMENT OF [REDACTED] NOVEMBER, 1940. [REDACTED] REGISTERED
ALP, 1950 TO 1952. (U)

Mr. Belmont

③ - BUREAU (REGISTERED MAIL)

TJM:JH (#7-1)
100-16854-Sub 4

RECORDED-68

EX-128

Approved: [Signature]
Special Agent in Charge

Sent M Per
Greenberg/Gray-7203

CONFIDENTIAL

FD-36
Mr. Tolson
Mr. Boardman
Mr. Nichols
Mr. Belmont
Mr. Mohr
Mr. Parsons
Mr. Rosen
Mr. Tamm
Mr. Sizoo
Mr. Winterrowd
Tele. Room
Mr. Holloman
Miss Gandy

UNRECORDED COPY FILED IN 100-150121

Document #10

FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE

Mr. W. S. Johnson
Mr. Doyle

0-9a

To: COMMUNICATIONS SECTION.

~~CONFIDENTIAL~~

DECEMBER 2, 1954

AIRTEL

Transmit the following message to:

SAC, NEW YORK (100-16854)

JUNE. [] INTERNAL SECURITY - C. NY AIRTEL

NOVEMBER 15, 1954, AND BUAIRTEL NOVEMBER 16, 1954, GRANTING

AUTHORITY TO INSTITUTE TESUR SURVEY ON TELEPHONE OF []

b6
b7C

(U) [] LANDLORD. SUAIRTEL RESULTS OF SURVEY. (X)

N.Y.

HOOVER

Bufile - 100-36670

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-24-2009

WFD:dlf
(5)

NOTE ON YELLOW:

NY airtel 11/15/54 requested that authority in view of fact that [] landlord and [] is reportedly being contacted through phone of []. No employee received as yet. Highly confidential anonymous source of outstanding value has been established on [] and it appears that if feasible this tesur would provide requisite security for continued successful operation this source. (X)

b6
b7C

CLASS. & EXT. BY 9803 R. D. S. / 05
REASON-FCIM 11, 1-2.4.2
DATE OF REVIEW 5/2/89

APPROPRIATE AGENCIES AND FIELD OFFICES
ADVISED BY ROUTING SLIP ON 5-3-79

EX-104

RECORDED - 63

INDEXED - 63

MAILED 11
DEC - 2 1954
COMM - FBI

13 DEC 6 1954

Tolson _____
Boardman _____
Nichols _____
Belmont _____
Harbo _____
Mohr _____
Parsons _____
Rosen _____
Tamm _____
 Sizoo _____
Winterrowd _____
Tele. Room _____
Holloman _____
Gandy _____

Greenberg/Gray-7204

~~CONFIDENTIAL~~

SENT VIA

M

Per

Document #11
F.B.I. TELETYPE

DECODED COPY

~~CONFIDENTIAL~~

JUNE

WASH 4 FROM NEW YORK

15

152100

4-55 P

DIRECTOR

URGENT

Mr. Tolson _____
Mr. Boardman _____
Mr. Nichols _____
Mr. Belmont _____
Mr. Harbo _____
Mr. Mohr _____
Mr. Parsons _____
Mr. Rosen _____
Mr. Tamm _____
Mr. Sizoo _____
Mr. Winterrowd _____
Tele. Room _____
Mr. Holloman _____
Miss Gandy _____

JUNE. [REDACTED] WA., IS-C. REBUFILE 100-36670 AND MYTEL OF NOVEMBER 9 LAST CAPTIONED QUOTE CPUSA-UNDERGROUND OPERATIONS, IS-C UNQUOTE. A SURVEY OF INFORMATION FURNISHED BY NY 1239-S* REFLECTS THAT SUBJECT IS BEING CONTACTED BY OTHER CP MEMBERS THROUGH THE TELEPHONE OF [REDACTED] SUBJECT-S LANDLORD. BUREAU PERMISSION IS REQUESTED FOR NY TO CONDUCT IMMEDIATE SURVEY TO INSTALL TECHNICAL SURVEILLANCE ON [REDACTED]

(U)

[REDACTED] BROOKLYN, NY, TELEPHONE MAIN 2-4167; [REDACTED]

IS SUBJECT OF PENDING NY SECURITY FILE 100-121319. (X)

KELLY

WA NY R 4 WA RD

APPROPRIATE AGENCIES AND FIELD OFFICES ADVISED BY ROUTING SLIP ON 5-9-79

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-24-2009

RECEIVED

11-15-54

9803 RAO/5:03 PM

MP

Mr. Belmont

CLASS. & EXT. BY 5/3/79
REASON-FCIM II, 1-2.4.2
DATE OF REVIEW

(U)

RECORDED - 128

NOV 22 1954

Greenberg/Gray-7205

~~CONFIDENTIAL~~

If the intelligence contained in the above message is to be disseminated outside the Bureau, it is suggested that it be suitably paraphrased in order to protect the Bureau's coding systems.

UNRECORDED COPY FILED IN 100-121319

Document #12

Greenberg/Gray-7206

0-9a

FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE

~~CONFIDENTIAL~~

To: COMMUNICATIONS SECTION. NOVEMBER 16, 1954

URGENT

Transmit the following message to SAC, NEW YORK

JUNE. [REDACTED] INTERNAL SECURITY - C. REURTEL NOVEMBER
FIFTEEN, LAST. AUTHORITY GRANTED INSTITUTE TESUR SURVEY ON
TELEPHONE OF [REDACTED]

(U) BROOKLYN, NEW YORK, TELEPHONE MAIN TWO DASH FOUR ONE SIX SEVEN.
TESUR SURVEY IN ADDITION TO COMMENTING UPON SECURITY ASPECTS
AND FEASIBILITY OF PROPOSED INSTALLATION SHOULD CONTAIN BRIEF
SUMMARY OF AVAILABLE SUBVERSIVE DEROGATORY DATA CONCERNING

b6
b7C

[REDACTED] SEVERAL SUBVERSIVE REFERENCES NOTED BUREAU FILES
NONE OF WHICH WERE IDENTIFIABLE WITH [REDACTED] BASED UPON INFORMATION
SUPPLIED RETEL.

NR. 161824

ENC. 1844-1845 BY [REDACTED]

CK. [REDACTED] BY [REDACTED]

APPROVED BY [REDACTED]

TYPED BY [REDACTED]

FILED BY [REDACTED]

Bufile - 100-36870

WFD:dlf

cc - Bufile 100-3-94-34

CLASS. & EXT. BY
REASON-FCIM II, 1-2.4.2
DATE OF REVIEW

NOTE ON YELLOW:

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-24-2009

[REDACTED] is a member of the New York State Underground
Board who was recently located in Brooklyn, New York. The New
York Office on November 8 and 9, 1954, established a highly
confidential anonymous source relating to [REDACTED]. This source
has been tremendously productive of valuable information
concerning Communist Party operations. Retel requests immediate
authority for tesur survey in view of fact that [REDACTED] is being
contacted by other Communist Party members through the
telephone of [REDACTED] landlord, in view of the
New York request teletype reply being sent.

b6
b7C

Tolson _____
Boardman _____
Nichols _____
Belmont _____
Harbo _____
Mohr _____
Parsons _____
Rosen _____
Tamm _____
Trotter _____
Tele. Room _____
Holloman _____
Gandy _____

NOV 16 1954

FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION

SENT VIA

Per

UNRECORDED COPY FILED

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. ~~E. C.~~ Flanders

DATE: June 2, 1980

FROM ~~21/~~ D. R. Koman

1 - Mr. J. L. Tierney

1 - Mr. D. R. Koman

SUBJECT: GRAY, FELT, MILLER SPECIAL
DOCUMENTS ORIGINATED MORE THAN
TWENTY YEARS AGO INVOLVING
CLASSIFIED INFORMATION

W. MARK ^OFelt

Certain FBI documents containing classified information originated more than twenty years ago have been denied the requester. These documents are listed in an appeal addendum, a copy of which is attached along with the staff comments of the Department Review Committee (DRC).

These documents were presented to the DRC on 5/8/80, at which time the DRC unanimously determined that the 20-year old material is within the purview of the Attorney General's prior decisions on such material and classification was upheld.

Action: Disclosure Section should review this request in line with the above decision and insure that all appropriate material is processed for release to the requester.

Enclosure

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-24-2009 BY 65179 dmh/baw/sbs

WEB:vp
(3)

6 OCT 8 1980

~~ENCLOSURE ATTACHED~~

ENCLOSURE



57 NOV 71

R254

Greenberg/Gray-7207

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

UNITED STATES GOVERNMENT

Memorandum

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Exec AD Inv. _____
Exec AD Adm. _____
Exec AD LES _____
Asst. Dir.: _____
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

TO : The Director

DATE: June 2, 1980

FROM : Legal Counsel *JAM*

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-24-2009 BY 65179 dmh/baw/sbs

SUBJECT: U.S. v. GRAY, ET AL.

57
C
L. Patrick On June 2, 1980, Thomas A. Kennelly, attorney for defendant Ed Miller, called me and said that he has determined that he will cause a subpoena to be served on Director Webster in the above-captioned case and he asked me whether it was necessary for him to serve the subpoena personally on the Director. I told him that I was authorized to accept personal service on behalf of the Director and that I would be available for that purpose.

Mr. Kennelly said that he and defense counsel Gettings, who is representing Mark Felt, would like to request an opportunity to interview me personally in regard to captioned case and requested such interview be conducted on Monday, June 9, 1980. I told Mr. Kennelly that I would be available for such an interview and we agreed that he and Mr. Gettings, plus their assistants, would appear at my office at 11:00 a.m., June 9, 1980, for such interview.

By memorandum to you dated January 2, 1979, then Deputy Attorney General Civiletti authorized such interviews of FBI employees pursuant to 28 CFR 16.21 with limitations concerning confidential sources of the Bureau and the targets of Bureau technical surveillances and other sophisticated techniques. The Deputy Attorney General further instructed "In order to insure that there is no inadvertent interference with the rights of the defendants in this case, you should not inform the Department of the identity of any potential witnesses who are contacted by defense counsel." Therefore, I am not at this time advising the Department or the prosecutor, Nields, of the requested interview.

If Mr. Kennelly serves a subpoena for you, I will discuss that matter with the prosecutor and advise you promptly of the action recommended.

- 1 - Mr. Mintz
 - 1 - Mr. Tierney
- Records Management Division

JAM:pdh

(3)

60 JUL 07 1980

62-118045-275
CONTINUED - OVER

6 JUN 13 1980

Greenberg/Gray-7208

FBI/DOJ

Legal Counsel to The Director
RE: U. S. v. GRAY, ET AL.

RECOMMENDATION:

For information.

APPROVED:

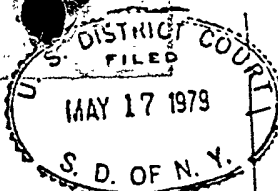
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Public Affs. Off. _____



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



UDITH CLARK, et al.,

Plaintiffs,

- against -

UNITED STATES OF AMERICA, et al.,

Defendants.

AMENDED
PROTECTIVE ORDER

78 Civ. 2244 (MEL)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

DATE 04-24-2009 BY 65179 dmh/baw/sbs

Plaintiffs having moved this Court for an order to
protect the discovery process and to further the interests of
justice, and the Court having duly considered the matter, it
ORDERED that:

1. No document identifiable with any plaintiff in
the possession, custody or control of the individual defendants
or Government agency defendants shall be destroyed or obliterated
in any manner pending a final determination of this action,
including any appeals, or upon further order of this Court:

2(a). All documents referred to in, and protected
by this order shall be placed and maintained under supervisory
control of the Court in the physical custody of any person or
agency now in possession of such records who shall be responsible
for the physical integrity of the documents. Any defendant
which has in its possession any of the documents shall be bound
by its terms.

3(a). A copy of this order shall be circulated
to each field office and legal attaches of the Federal Bureau of
Investigation ("FBI") as well as any organizational unit within
the headquarters of the FBI. Additionally, copies of the order
will be circulated to appropriate officials of the Postal Service
and Department of Justice having custody of documents identifiable
to any plaintiff.

62-118045
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Greenberg/Gray-7210

(b). A copy of this order shall be placed in each volume or section of all FBI main files identifiable as relating to plaintiffs.

(c). The FBI shall prepare an index of all main files referred to in 3(b) above, specifying the serial numbers of documents contained in each file and the location of each file. A copy of the index shall be furnished to ^{for each party} plaintiffs' attorneys and to the Court.

4. Documents protected by this order include (a) all records of any kind and description which have been garnered in connection with past and present investigations and may be garnered in connection with future investigations of any plaintiff, including but not limited to records which are identifiable to plaintiffs though contained in records pertaining to investigations of organizations or individuals with which any plaintiff may have had or may have affiliations, and (b) directives or guidelines governing the conduct of such investigations, including but not limited to the FBI Manual of Instructions and Attorney General Guidelines.

5. All documents compiled in the course of the prosecution or defense of United States v. Gray and United States v. Felt and Miller, 78-000179 (Bryant, C.J.), excluding attorneys' work products, shall be subject to the provisions of paragraphs 1 and 2 of this order. At the conclusion of the prosecutions, all documents covered by this order shall be maintained in the custody of attorneys, or their successors in control of such documents pending final determination of this action.

6. Nothing in this order shall preclude the handling, necessary marking of documents, or necessary alteration of copies of documents in the ordinary course of business or trial preparation by anyone in possession of the documents.

7. It is the intent of the Court that this order shall be broadly construed so as to prevent the destruction of any documents. In the event of any question by ^{any} defendant ^{MSX} concerning the scope and coverage of this order, or any question concerning whether any particular documents come within the designated scope and coverage of this order, the documents in question will not be destroyed or obliterated in whole or part, until either: (a) they are presented to ~~the attorneys for the other parties~~ ^{plaintiffs and plaintiffs' attorneys} for examination and ~~such parties~~ ^{plaintiffs}, by their attorneys, stipulate in writing that the documents may be destroyed or obliterated in whole or part; or (b) the Court, after a hearing duly noticed, exempts the specified documents in question from its order.

8. In addition to specific instructions concerning communication of the contents of this order contained herein, defendants and their attorneys shall communicate the contents of this order forthwith to all appropriate individuals so as to assure the effectuation and compliance with the order by all persons.

9. Within 30 days, defendants shall report to the Court all steps taken so as to assure the effectuation and compliance with this order by all persons.

Dated: New York, New York

~~APRIL 18~~ , 1979
May 16

Monmouth College
United States District Judge

~~SECRET~~

Information classified per letter dated 8-14-2009

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

TO : Mr. Colwell *7/3/80* *4/10/78*

DATE: 6/16/80

FROM : *WLB* *RM* L. Bailey

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(6)
DATE 04-24-2009

SUBJECT: U.S. vs FELT et al

MARK W. FELT

Exec AD Inv. _____
Exec AD Adm. _____
Exec AD LES _____
Asst. Dir.:
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Crim. Inv. _____
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Rec. Mgnt. *WLB/RM*
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Director's Sec'y _____

PURPOSE: The purpose of this memorandum is to advise of disclosure problems in connection with trial of captioned case, and to solicit the observations of the Intelligence (INTD) and Criminal Investigative (CID) Divisions.

SYNOPSIS: Documents prepared for trial use in this matter have been reviewed. A number of the documents as redacted would tend to disclose confidential relationships between the FBI and telephone companies, banks and, in some instances, individuals. The Department, to date, has not taken steps to protect third-party privacy issues.

RECOMMENDATION: That the CID and INTD furnish their comments regarding trial disclosure problems outlined in this memorandum.

SEE INTD ADDENDUM
ON PAGE 5

APPROVED: _____
Director _____
Exec. AD-Inv. *WLB*
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DETAILS: Documents designated for trial use by the defense counsel for Felt have been reviewed. Miller's attorney has not designated, as of this time, all the documents needed for trial and may not do so until trial. The Department has brought this to the court's attention, and Judge Bryant had indicated he will instruct Miller's attorney to give reasonable advance notice of documents he intends to use during trial. *62-118045-275*

The documents have been reviewed and have been divided into two categories by the Department prosecutors. The first category is those documents containing the highly sensitive information. These documents will be discussed pretrial with the defense and, if necessary, the court to resolve any disclosure

1 - Mr. Colwell
1 - Mr. Mullen
1 - Mr. Mintz
1 - Mr. O'Malley

1 - Mr. Revell
1 - Mr. Steel
1 - Mr. Bailey
1 - Mr. Daly *48*

PVD:jam *jam*
(9)

(CONTINUED - OVER)

See CID Addendum Page Eight

~~SECRET~~ MATERIAL ATTACHED

62-118045

Greenbe *57* *6/15/80*

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W. L. Bailey to Mr. Colwell Memorandum
Re: U. S. vs FELT et al

problems during trial. For the most part, up to this point, documents in this category have been redacted or the information stipulated to protect national security concerns.

The second category is those documents which do not present a serious national security concern. These documents will be addressed during the course of trial as they are entered into evidence. All of the documents designated for trial use have been reviewed by the appropriate investigative division, as well as by SAs Paul V. Daly and Joseph L. Tierney. The prosecutors have indicated what information they will seek to protect in these documents and what will have to be disclosed during trial. Information to be disclosed during trial presents a number of problems that can be best outlined by category.

Sources of Information

A considerable amount of information contained in these documents originated with bank officials, telephone company representatives and school officials. While the trial documents will be redacted to protect the identity of the person furnishing the information, it will be clear that someone at a particular bank or telephone company furnished the FBI information. In many instances, we accepted information from banks and telephone companies with the assurance we would not disclose it further without the issuance of a subpoena duces tecum.

There are also instances where we were furnished privileged information. For example, a physician furnished details regarding his treatment of an individual affiliated with the Weatherman. While the doctor's name will be redacted, the disclosed information, if read by the patient, would undoubtedly disclose his identity.

Many of the documents contain information furnished by parents, neighbors and acquaintances of subjects of investigation. Again, while the identity of the individual furnishing the information will be redacted, the information will, in many instances, tend to disclose the source of the information.

Also, contained in the documents is information furnished by people who were involved with various New Left groups and later cooperated. Some of the more detailed information obtained during our investigation of the Weatherman was obtained in this fashion. Because the information is so detailed, disclosure will, in some instances, pinpoint the source of the information even with the identity redacted.

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W. L. Bailey to Mr. Colwell Memorandum
Re: U. S. vs FELT et al

Third-Party Privacy

We have notified the Department in writing that we would leave to their judgment any third-party privacy problems presented by disclosure of information during trial. Based on the fashion in which the documents have been redacted for trial purposes, it appears that a large amount of derogatory information pertaining to individuals will be disclosed. To date, there has not been any noticeable effort to protect privacy interests by the Department.

(S) There is one other category of information which, at this time, is presenting a problem concerning its trial use. The information in question is foreign government information, which has been inadvertently disclosed to the defense. In both instances, the information in question was the subject of a claim of privilege tendered to the court. The claims of privilege were upheld by the court in both instances with exception that the court ruled the defense could have a portion of a document containing [redacted] information. We recently learned that the Department inadvertently disclosed the additional [redacted] information contained in the document in question. The additional information is much more specific in content and the defense is pushing for trial use of that information, as well as the information the court ruled they are entitled to. This has not been resolved as of yet. b1

(S) The second instance of foreign government information being in jeopardy is information originating with the [redacted] [redacted] These issues will be resolved one way or the other pretrial. There are other minor problems where foreign government information was furnished the defense inadvertently, but the information in question is very nebulous and/or is contained in our files from a nonforeign government source so that an effective substitution can be made. b1

We are continuing to work with the Department to resolve problems outlined in this memorandum; however, it is highly unlikely that all the problems will be resolved. In some instances, it may be possible to protect information because the defense does not enter the whole document into evidence. Our understanding, at this time, is that while a whole document might go to the jury, only that portion of it entered into evidence will become public. For example, in a 600-page Weatherman report, the defense might use only one or two pages. The remaining pages would not become public.

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W. L. Bailey to Mr. Colwell Memorandum
Re: U. S. vs FELT et al

As to oral testimony during the course of this trial, Judge Bryant has instructed the defense that all testimony, when based on a document, must be limited to that which is going to be disclosed in the document. This will prevent defense witnesses from putting back into evidence orally that which has been redacted.

SEE INTD ADDENDUM ON PAGE 5

See CID Addendum Page Eight

- 4 -

Greenberg/Gray-7216

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Memorandum to Mr. Colwell
Re: U.S. vs FELT et al

ADDENDUM BY E. J. O'MALLEY - 6/18/80

EJO:lm1 *lm1*

The disclosure during trial of two types of information mentioned in this memorandum raises serious issues concerning which INTD must comment.

INTD is seriously concerned and objects to the disclosure during trial of information furnished to the FBI in confidence by public, private, or foreign sources. It is not sufficient to redact the identities of banks, telephone companies, and physicians if the nature of the information itself will compromise the source. Such a compromise directly relates to the keystone on which rests the FBI's ability to function as an investigative agency, the public and private cooperation in our investigations. We do not and never will be able to operate in a vacuum which is where we will end up if sources of information recognize that they can no longer trust us to honor our promises of confidentiality or promises to seek a subpoena duces tecum. Such a disclosure would hamper our already tenuous relations with banks and telephone companies in many parts of the country.

The chilling effect on informant development caused by the mere existence of civil suits against the FBI and the Freedom of Information Act (FOIA) is well known. We have no control over the institution of a civil suit against us or the information we legally release under the FOIA, but the costly perception persists in some areas that we cannot protect our sources. How much greater will be the damage if the Government releases compromising information in a prosecution? It is no defense to say that the disclosure was made in a very special case or that it was disclosed despite FBI objections. Nor will it help to say that we are seeking relief from FOIA requirements. The impact of the disclosure will be squarely on the FBI and it is we who will pay the price in terms of future support from public utilities, banks, and private citizens.

The disclosure of a second category of information, that furnished to us in confidence by a foreign government, is of direct concern to INTD. We are talking here about two pieces of information which were "inadvertently" furnished by the Department of Justice (DOJ) to defense counsel. The first is extremely sensitive information that clearly pinpoints the b1

(S)

[REDACTED]

[REDACTED] The defense has indicated that it wants to use these two pieces of information

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DATE OF REVIEW 6/18/2000

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Memorandum to Mr. Colwell
Re: U.S. vs FELT ET AL
ADDENDUM BY E.J. O'MALLEY Continued:

during trial and the Department is not confident that the Judge will not so order despite DOJ objections. DOJ further indicated that should such be ordered and it was necessary for the trial that they would abide by the Judge's instructions rather than dismiss the case. b1

(S)

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- 6 -

Greenberg/Gray-7218

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Memorandum to Mr. Colwell
Re: U.S. vs FELT ET AL

ADDENDUM BY E. J. O'MALLEY Continued:

(S)

[REDACTED]

b1

The FBI has gone as far as it possibly can in agreeing to the release of information to defense counsel in this prosecution, including the personal commitment of the Director of the FBI in the case of the [REDACTED] information. [REDACTED]

(S)

[REDACTED]

b1

(S)

Of even greater concern to INTD is the effect of the use of [REDACTED] information during the trial if so ordered by the court. This would remove all doubt as to the future cooperation between the [REDACTED] intelligence services and the FBI. It would cease. We have a need to maintain very close relationships with many other friendly intelligence services which would also be damaged should news of the release of such sensitive information become known, as it surely will. In addition, we are part of the U.S. Intelligence Community and our standing in that Community will be damaged by such disclosure during trial with a drying-up of sensitive information from the rest of the Community, a not-unlikely prospect. The DCI is charged with the protection of Intelligence Community sources and methods and the FBI sits on his Security Committee. To date, he has not been consulted regarding the damage that could be inflicted on the Intelligence Community if foreign source information is released during a trial in the United States. He should be consulted and his thinking obtained.

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(S)

The 6/13/80 "inadvertent" release by the DOJ to defense counsel of a list of [REDACTED] in the New York Office is the subject of a separate memorandum and INTD will comment separately on that issue.

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- 7 -

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ADDENDUM: CRIMINAL INVESTIGATIVE DIVISION JUNE 20, 1980 RKM:qdr

The disclosure at trial of FBI documents that, either individually or in total, would tend to identify confidential relationships between individuals or organizations and the FBI would cause serious damage to our investigative operations. (U)

The Criminal Investigative Division (CID) believes that any disclosure of confidential information furnished the FBI by banks, telephone companies, and other public organizations would severely hamper our future investigative efforts in almost all programs. In nearly every instance, the public sources who have provided confidential information did so only after assurances were given that the source of the information provided would not be divulged by the FBI. We are already experiencing great difficulty in obtaining records and other data from organizations such as banks and telephone companies, as a result of the Freedom of Information Act (FOIA). Should the assistance rendered the FBI by these public organizations be brought out in open court, further erosion of our relationships with these organizations would occur, thus resulting in a reduction of the FBI's ability to fulfill its investigative responsibilities. (U)

Also of great concern to CID is the release of documents which would reveal the cooperation rendered by informants and casual sources. The Department of Justice (DOJ) has requested we contact the Newark, New Jersey, Police Department to obtain permission to disclose at trial information furnished by a highly confidential source of that department, relative to the whereabouts of a Weatherman fugitive, [redacted]. The DOJ believes that [redacted] were aware of the whereabouts of [redacted] and that this formed the basis for the break-in directed against [redacted]. (U)

b6
b7C

The SAC, Newark, established contact with Captain [redacted] [redacted] the former head of the Newark Police Department Intelligence Unit, who initially furnished the information to the FBI, in an attempt to comply with the DOJ request to obtain permission to disclose information furnished by a highly confidential source concerning the whereabouts of [redacted] states that he cannot be certain of the identity of the source in question. However, according to [redacted] the source would be endangered by the release of the information, and the information should be protected from disclosure and his prior request for confidentiality should be honored. (U)

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b7C

CID strongly believes that the FBI must honor [redacted] request for the continued confidentiality of his informant. A great deal of valuable information relating to FBI investigations is obtained from police departments and other state and Federal law enforcement agencies through the use of their confidential informants.

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Classified and Extended by 8024

Reason for Extension FCIM, II, 1-2.4.2 (2)

Date of Review for Declassification June 20, 2000

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When the information is supplied, it is clearly understood by both the giver and receiver that the source of the information will be protected, unless the contributing agency stipulates otherwise. If it were known that the FBI abrogated this principle, it could seriously curtail the receipt of information from other law enforcement agencies, upon whom we rely heavily. (U)

In addition to receiving valuable information through the confidential informants of other agencies, the FBI disseminates a great deal of our confidential informant information to these same police departments. When such dissemination is made, it is our clear understanding that they will not compromise our informants without our permission. There have been numerous incidents in which we have strenuously objected to the use of informant information by other law enforcement agencies in a manner which we believe would compromise our informants. The FBI has maintained our objections even though, in some instances, it has meant the termination of prosecutive action against the subjects of a particular case. Not honoring [redacted] request, therefore, would put us in a position of reversing our own longstanding policy. The release of this information in open court would cause unacceptable damage to the FBI. (U)

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The connection between Al Fatah and [redacted] is also a matter of extreme concern to the CID. Specifically, this matter concerns information furnished by a Los Angeles source that members of Al Fatah had contacted [redacted] in the United States to obtain explosives and ammunition for use in fomenting an incident in the United States. The source also advised that Al Fatah contemplates "A spectacular action in the United States." (U) (S)

b7D

When this issue developed, Agents of the Los Angeles Office contacted the informant in Los Angeles. This informant advised that, should the above information be made public, his identity and relationship with the FBI would be known, which would place his life in jeopardy. (U)

CID strongly believes that the information furnished by this informant, and all others, must be protected. This informant's information, should it be released in trial, would in all likelihood identify him. He would be in danger of losing his life, and it would make the development of new informants and the retention of current sources more difficult than it already is. The CID believes that releasing this information would, therefore, constitute a violation of established ethical values and would cause unacceptable damage to the FBI's current and future operations. (U)

Another issue of concern is the need to protect the identities of casual sources. Specific examples of this type of source as their use relates to this matter are numerous and varied. One casual

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source was the father of a Weatherman fugitive, who willingly discussed his daughter's life and furnished general information of some value to our investigation. Another fugitive's sister also provided valuable assistance. Neighbors, local police department personnel, and real estate personnel, to name just a few, all provide information of value to the FBI. (U)

The FBI has a longstanding history of protecting the confidentiality of the citizens who assist us in our investigations. Release of information furnished by these casual sources and their identities would clearly violate this principle and would most assuredly limit the cooperation and information received from casual sources in future investigations. (U)

Sgm

APPROVED:

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- 10 -

Greenberg/Gray-7222

UNITED STATES GOVERNMENT

Memorandum

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Exec AD Inv. _____
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 Exec AD LES _____
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 Director's Sec'y _____

TO : Mr. Colwell *LC*

DATE: 6/2/80

FROM : W. L. Bailey *WLB*

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 05-04-2009 BY 65179 dmh/baw/sbs

SUBJECT: U. S. vs. W. MARK FELT
 TRIAL PREPARATION

*MARK W. Felt*PURPOSE:

To obtain approval for the temporary loan of three support employees to the Department.

RECOMMENDATION:

That three support employees be selected from Records Management Division to work at the Department full time for approximately two weeks, and thereafter on an as-needed basis until trial.

APPROVED:

Director _____
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 Exec. AD-Adm. _____
 Exec. AD-LES _____

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 Rec. Mgnt. *WLB*
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 Public Affs. Off. _____

DETAILS:

On 6/2/80 John W. Nields, Jr., advised that he needed assistance which he is unable to procure from his own channels within the Department. He asked for three Bureau support employees, who are familiar with the theory and mechanics of redacting documents, to work full time for about two weeks and part time thereafter. He would like them to start 9:00 A.M., Tuesday, 6/3/80. Shift changes would not be required.

- 1 - Mr. Colwell
- 1 - Mr. Steel
- 1 - Mr. Bailey
- 1 - Mr. Flanders
- 1 - Mr. Finzel
- 1 - Mr. Tierney

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 (7) *pen*

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FBI/DOJ

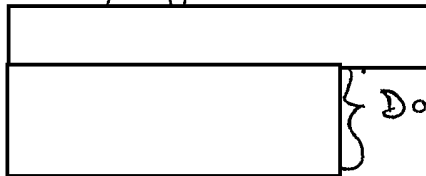
Memorandum to Mr. Colwell
Re: U. S. vs. W. MARK FELT

Mr. Nields explained he has copies of trial documents prepared after consultation with us or other Federal agencies. In the existing set, material to be excised is marked by yellow highlights, and, in some cases, there is additional textual material or substitute phrases to be inserted in place of the excised text. A neat, final version of the redacted document must now be prepared. The work will be done under the supervision of a GS-11 Paralegal. The employees should have sufficient ability to detect gross errors or misapplications of the excising policy, but will be engaged in the mechanical transfer of excisions from one copy of a document to another. Efficiency and precise attention to detail are the prime talents sought. Mr. Nields has also noted a rudimentary knowledge of typing would be helpful.

Although a valid case can be made for our understaffed status, a better case could be found in which to take that position. We have no real choice except to honor Mr. Nields' request.

*Since documents belong to FBI
and in view of nature of case we
should be ~~co~~ cooperative and assist
whenever we can.
JC,*

The following reported to Mr. Nields AM of 6/3/80:



- FOIPA

*Document Classification
and Review Section*

b6
b7C

QF 6/3/80

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EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(6)
DATE 05-04-2009

~~FEDERAL GOVERNMENT~~

The Attorney General

July 3, 1980

Director, FBI

Greenberg/Gray-7225

U.S. vs. W. MARK FELT, et al.

(S)



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Special Counsel John W. Nields, Jr., is familiar with the background regarding this disclosure and has a copy of the document containing the information in question. (U)

62-118045-276

Classified and Extended by 115

JUL 23 1980

Reason for Extension FCIM II, 1-2.4.2 (1,2,3)

Date of Review for Declassification 7/3/2010

Hand delivered
7/3/80 LJS

Copy furnished
to Nields 7/3/80
LJS

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NOTE: See memo E. J. O'Malley to Mr. Mullen dated 7/2/80, captioned as above, JLT:tdp.

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1 - Mr. Colwell
1 - Mr. Mullen
1 - Mr. Mintz
PVD:mj (11) 1000

1 - Mr. O'Malley
1 - Mr. Revell
1 - Mr. Steel

1 - Mr. Bailey
1 - Mr. Daly
1 - Mr. Tierney

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APPROVED:

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UNITED STATES GOVERNMENT

Memorandum

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Exec AD Inv. _____
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Telephone Rm. _____
Director's Sec'y _____

TO : The Director

DATE: June 19, 1980

FROM : Legal Counsel *JAM*

SUBJECT: W. MARK U. S. v. FELT AND MILLER, EDWARD S.
#78-179 Cr.
U. S. D. C., D. C.

At 2:56 p. m., June 19, 1980, Thomas Kennelly, the attorney representing Ed Miller, called and requested the Bureau to furnish him a copy of a memorandum from Cassidy to Wannall dated September 17, 1975, captioned "General Accounting Office review of FBI Operations" for purposes of captioned case. I referred his request to Paul Daly who agreed to locate the material and furnish it appropriately.

I asked Mr. Kennelly when he would submit a letter to the Director outlining the areas of testimony he would request from the Director. He said that due to his busy schedule he would not prepare such a letter prior to Saturday, June 21, 1980, but that he would expedite forwarding the letter.

RECOMMENDATION:

For information.

APPROVED: <i>JAM</i>	Adm. Serv. _____	Legal Coun. <i>JAM</i>
Director _____	Crim. Inv. _____	Plan. & Insp. _____
Exec. AD-Inv. _____	Ident. _____	Rec. Mgnt. _____
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Exec. AD-LES _____	Laboratory _____	Training _____
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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-04-2009 BY 65179 dmh/baw/sbs

1 - Mr. Mintz

JAM:pdh
(2) *JAM*

60 JUL 30 1980

Greenberg/Gray-7226

LEGAL COUNSEL

FBI/DOJ

UNITED STATES GOVERNMENT

Memorandum

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

~~SECRET~~

TO : The Director *W*
FROM : E. J. O'Malley *SP*
SUBJECT: U. S. VS. W. MARK FELT, ET. AL.
PREPARATION FOR TRIAL (U)

DATE: 7/10/80

Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____
Asst. Dir.:
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

PURPOSE:

(U) To advise of contacts with Department of Justice (DOJ) regarding presentation of damage assessment to Director of Central Intelligence (DCI) in the context of captioned trial and the DCI's responsibility for protection of intelligence community sources and methods. (S)

RECOMMENDATION:

(U) That we concur that the Attorney General (AG) present our damage assessment regarding sources and methods to the DCI along with such assessments by other members of the intelligence community concerned with this trial. (S)

* Per Director OK to ask AG to present damage assessment to DCI in this instance only because of possible appearance of FBI self-interest.
OK 7/14/80

APPROVED:

Director _____
Exec. AD-Inv. _____
Exec. AD-Adm. _____
Exec. AD-LES _____

Adm. Serv. _____
Crim. Inv. _____

Ident. _____
Intell. _____
Laboratory _____

Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____

DETAILS:

(U) O'Malley to Mullen memorandum dated 7/2/80, recommended that EAD Mullen contact Assistant Attorney General (AAG) Heymann to explore DCI participation in the damage assessment and to insure DCI's aware of his option to participate. (S) 62-118045-277

- 1 - Mr. L. Colwell
- 1 - Mr. F. M. Mullen, Jr.
- 1 - Mr. J. A. Mintz
- 1 - Mr. O. B. Revell
- 1 - Mr. W. L. Bailey
- 1 - Mr. E. J. O'Malley
- 1 - Mr. A. L. Steel, Jr.
- 1 - Mr. P. Daly
- 1 - Mr. J. L. Tierney

SEE INTD ADDENDUM PAGES 4 and 5

~~SECRET~~

CONTINUED - OVER 5-EN

EJO:lfr
5(10)

Classified and Extended by 115
Reason for Extension FCIM, II, 1-2.4.2 (1,2 and 3)
Date of Review for Declassification (July 10, 2010)

62-118045
Greenberg/Gray-7227

FBI/DOJ

~~SECRET~~

Memorandum to The Director from E. J. O'Malley
Re: U. S. VS. MARK FELT, ET. AL.
PREPARATION FOR TRIAL (U)

(U) An August 18, 1980 date has been set for captioned trial. Since AAG Heymann was unavailable for contact due to his presence in the United Kingdom and since EAD Mullen was on annual leave, and due to the imminence of the trial, Assistant Director (AD) O'Malley contacted John C. Keeney, Deputy Assistant Attorney General, Criminal Division, DOJ. Accompanying AD O'Malley were Deputy Assistant Director Robert P. Finzel and ASAC Paul Daly. ~~(S)~~

(U) The National Security Act of 1947, the National Security Council Directive Number 1, dated 2/17/72, and Executive Orders 12036 and 12065, all of which place responsibility for the protection of intelligence sources and methods with the DCI, were discussed with Mr. Keeney. He was also informed that the FBI, as a member of the intelligence community, is required by Executive Order 12036 to advise the DCI of matters involving the protection of sources and methods and that our purpose in contacting him was to discuss this requirement. He was further advised that we would do a damage assessment and, as required by the Executive Order, would furnish it to the DCI. It was also pointed out to him that we are aware that the AG intended to participate in an overall damage assessment, including one submitted by FBI, in order to balance the national security interests with prosecutive interests and that an independent, detached, view on the damage from the DCI would greatly assist the AG in this regard. Mr. Keeney said that he would discuss this matter with the DOJ Counsel involved in trial preparation and would call Mr. Daly on 7/11/80 regarding that discussion. ~~(S)~~

(U) During the early evening of 7/10/80, Deputy AG Charles Renfrew contacted AD O'Malley and stated that Mr. Keeney briefed him on our earlier discussion regarding the presentation to the DCI of a damage assessment vis-a-vis intelligence sources and methods. He said that this is a very legitimate concern on our part and that he concurs that a determination has to be made by the DCI as to the damage which could be caused to sources and methods by this trial. ~~(S)~~

~~SECRET~~

- 2 -

Greenberg/Gray-7228

~~SECRET~~

Memorandum to The Director from E. J. O'Malley
Re: U. S. VS. MARK FELT, ET. AL.
PREPARATION FOR TRIAL (U)

(U) Judge Renfrew said that he understood that the AG offered to make an overall damage assessment and that our assessment would be presented to the AG and he, Judge Renfrew, wondered about the timing involved. AD O'Malley replied that we are aware of the AG's offer and that, following a recent briefing on the potential damage, coupled with the setting of the trial date of 8/18/80, we decided to move quickly in order to prepare our damage assessment in time to allow the DCI to consider it and present his separate views to the AG. AD O'Malley added that because of the time pressure we could not wait until AAG Heymann returned from the United Kingdom. ~~(S)~~

(U) Judge Renfrew suggested that we consider concurring with the AG presenting our damage assessment to the DCI. He said that this would further insulate the FBI from any charges or a perception of bias by directly presenting our assessment to the DCI. He was informed that it has been the FBI's intention all along to insure that the AG receive an unbiased, objective view on the damage and that our presentation of our assessment to the DCI was in furtherance of this. He said that the AG would be returning to Washington on Wednesday, 7/16/80, and requested that we consider asking him to present our damage assessment to the DCI. AD O'Malley informed Judge Renfrew that he would discuss his suggestion with other Bureau officials and would return his call. ~~(S)~~

(U) After discussing Judge Renfrew's suggestion with EAD Colwell, AD O'Malley attempted unsuccessfully to recontact him on 7/10/80 to inform him that his suggestion would be sent up by memorandum for consideration by Judge Webster. ~~(S)~~

(U) Judge Renfrew's suggestion makes sense if the AG presents our damage assessment to the DCI along with those of other concerned members of the intelligence community and it is recommended that it be considered favorably by the Director. ~~(S)~~

~~SECRET~~

- 3 -

Greenberg/Gray-7229

~~SECRET~~

1 - Mr. Colwell
1 - Mr. Mullen
1 - Mr. Mintz
1 - Mr. Revell
1 - Mr. Bailey
1 - Mr. O'Malley
1 - Mr. Steel
1 - Mr. P. Daly
1 - Mr. Tierney

Memorandum E. J. O'Malley to The Director
Re: U. S. VS. W. MARK FELT, ET. AL.
PREPARATION FOR TRIAL (U)

ADDENDUM: INTELLIGENCE DIVISION

EJO:mjt 7/18/80

Following the Director's approval to ask the Attorney General to present the damage assessment to the DCI, in this instance only because of possible appearance of FBI self interest, a meeting was held on July 15, 1980, between AD O'Malley, DADs Finzel and Monroe, ASAC Daly and SA Joseph Tierney. The main issue concerned the writing of the damage assessment, and the need for appropriate personnel to help in preparing it. SA [] of the Criminal Investigative Division SA [] of the Records Management Division and SA [] of INTD were selected to work with Messrs. Daly and Tierney in preparing the damage assessment. SAs Daley and Tierney will also pull the necessary documents which have to be analyzed.

b6
b7C

It was emphasized during the meeting that the documents which will be reviewed are those which have been furnished to the defense and that, although one can never be sure exactly which of these documents will or will not be used by the defense, it was decided that we would give it our best effort in presenting a total damage picture should any of the documents be used since it is not predictable in advance which will or will not be used.

The summary will be placed in a binder and will consist of an executive summary, details, and exhibits which will consist of documents supporting the views set out in the executive summary. The damage assessment will be furnished to the Director for transmittal to the Attorney General.

On July 16, 1980, AD O'Malley attempted to contact Judge Renfrew to advise him of the Director's decision in this matter but did not succeed in so doing until late in the afternoon. AD O'Malley requested an appointment to see Judge Renfrew during the early morning hours of July 18, 1980, to further discuss this issue. Judge Renfrew agreed. During the morning of July 18, 1980, AD O'Malley called Judge Renfrew's office and was informed that he had left town and had probably forgotten about the meeting. AD O'Malley then contacted Eric Richard to determine whether or not Judge Renfrew had time to brief the Attorney General on Judge Renfrew's suggestion that the damage assessment be furnished to the DCI through the Attorney General and Judge Webster's concurrence with that suggestion in this case only. Eric Richard said that Judge Renfrew had met with the Attorney General for two hours on July 17, 1980, and he did not think that the subject had come up during their discussion. AD O'Malley informed Mr. Richard that Judge Renfrew

- 4 -

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CONTINUED - OVER

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Memorandum E. J. O'Malley to The Director
Re: U. S. VS. W. MARK FELT, ET. AL.
PREPARATION FOR TRIAL (U)

had made a suggestion about the damage assessment being furnished to the DCI but that he, O'Malley, did not think that he should present Judge Renfrew's idea to the Attorney General but recommended that we wait until Judge Renfrew returned to work on Tuesday, July 22, 1980, to permit Judge Renfrew to present his own idea personally to the Attorney General. Eric Richard concurred with this thinking. AD O'Malley then contacted Judge Renfrew's secretary and requested an appointment for Deputy Assistant Director James E. Nolan to meet with Judge Renfrew during the morning of July 22, 1980, to discuss with him the damage assessment. She advised that Judge Renfrew should be free between 9:15 a.m., and 9:45 a.m. on July 22, 1980.

DAD Nolan will formally advise Judge Renfrew of Judge Webster's decision on this issue and will further suggest to Judge Renfrew that the Attorney General or he should alert the DCI that the damage assessment is being prepared and will be furnished to the DCI for his viewing, that CIA and NSA should also furnish damage assessments to the DCI through the Attorney General to enable the DCI to have the complete picture regarding potential damage and finally, that the DCI alert the State Department to be ready to furnish its views since much of the damage will have foreign policy implications.

APPROVED:	Adm. Serv. _____	Legal Coun. _____
	Crim. Inv. _____	Plan. & Insp. _____
Director _____		Rec. Mgnt. _____
Exec. AD-Inv. _____	Ident. _____	Tech. Servs. _____
Exec. AD-Adm. _____	Intell. <i>EJH</i> _____	Training _____
Exec. AD-LES _____	Laboratory _____	Public Affs. Off. _____

- 5 -

~~SECRET~~

Greenberg/Gray-7231

~~SECRET~~

UNITED STATES GOVERNMENT

Memorandum

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

1 - Mr. Colwell
1 - Mr. Mullen

DATE: 7/2/80

TO : Mr. Mullen *jm*

FROM : E.J. O'Malley *ego*

SUBJECT: U.S. VS. W. MARK FELT, ET AL.
PREPARATION FOR TRIAL (U)

1 - Mr. Mintz
1 - Mr. O'Malley
1 - Mr. Revell
1 - Mr. Bailey
1 - Mr. Steel
1 - Mr. Daly
1 - Mr. Tierney

Exec AD Inv. _____
Exec AD Adm. _____
Exec AD LES _____
Asst. Dir.: _____
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

PURPOSE:

To advise of action being taken to protect essential interests of the FBI and the intelligence community. (U)

RECOMMENDATIONS:

(1) That the attached letter from the Director to the Attorney General [REDACTED]

b1

APPROVED:

Director _____
Exec. AD-Inv. *jm*
Exec. AD-Adm. _____
Exec. AD-LES _____

Adm. Serv. _____
Crim. Inv. _____

Ident. _____
Intell. *ego*
Laboratory _____

Legal Coun. _____

Plan. & Insp. _____

Rec. Mgnt. _____

Tech. Servs. _____

Training _____

Public Affs. Off. _____

ALL INFORMATION CONTAINED
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WHERE SHOWN OTHERWISE

(2) That EAD Mullen contact AAG Heymann to explore Director of Central Intelligence (DCI) participation in the damage assessment and insure DCI is aware of his option to participate. (U)

APPROVED:

Director _____
Exec. AD-Inv. *jm*
Exec. AD-Adm. _____
Exec. AD-LES _____

Adm. Serv. _____
Crim. Inv. _____

Ident. _____
Intell. *ego*
Laboratory _____

Legal Coun. _____

Plan. & Insp. _____

Rec. Mgnt. *WUB*

Tech. Servs. _____

Training _____

Public Affs. Off. _____

**I CONCUR ON THE UNDERSTANDING
THE DCI WOULD PROVIDE CENTRAL DAMAGE
ASSESSMENT OF POTENTIAL DISCLOSURES
FOR ALL INTELLIGENCE AGENCIES
INVOLVED AND WOULD NOT BE
REQUESTED TO ADVOCATE
DISMISSAL OF PROSECUTION*

DETAILS:

A briefing and discussion was held on 7/1/80 of the several areas of concern expected to arise from public disclosures during trial in captioned prosecution, their impact on the FBI and the intelligence and law enforcement communities, and the options available to us to minimize this impact. Attending were Executive Assistant Director Mullen, Assistant Directors O'Malley, Revell and Mintz, Deputy Assistant Directors Finzel and Monroe, Special Assistant to the Director Steel, ASAC J. Daly and SA Joseph L. Tierney. (U)

~~SECRET~~

Enc. - Sent 7/3/80

JLT:tdp
(10)

Classified and Extended by 115
Reason for Extension FCIM II, 1-2.4.2 (1,2,3)
Date of Review for Declassification 7/2/2010

60 OCT 23 1980

62-118045

~~SECRET~~

b6
b7C
FBI/DOJ

Greenberg/Gray-7232

~~SECRET~~

Memorandum E.J. O'Malley to Mr. Mullen
RE: U.S. VS. W. MARK FELT, ET AL.
PREPARATION FOR TRIAL (U)

The group shares the concern of the Director that the FBI not be an obstacle to this prosecution, either in fact or in the perception of the Department or the public. Nevertheless, we have essential interests which should be protected. These interests relate primarily to the protection of sources, including foreign sources, technical sources, informants and FCI Assets, and "casual" sources. The Director has publicly voiced our traditional concern for the protection of all confidential sources on several occasions, as in connection with remedial legislation proposals for FOIPA, and our reactions in this case should be consistent with this posture. Furthermore, the operational effectiveness of the intelligence and law enforcement communities depends on the ability of their members, including the FBI, to take necessary steps to protect sources and information exchanged between agencies on a confidential basis. The FBI will be held accountable by other agencies for damages arising from this prosecution, despite the fact that responsibility for the decisions rests with the Department. (U)

The postponement of the trial date from 7/7/80 (no new date has been set) removes the necessity to establish policy for disclosure decisions on the eve of or during trial in the absence of the Director. Such policy may be considered in about two or three weeks when the range of materials will presumably be further narrowed by trial preparation. (U)

Two issues of immediate concern remain. (U)

(S)

b1

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- 2 -

Greenberg/Gray-7233

~~SECRET~~

Memorandum E.J. O'Malley to Mr. Mullen
RE: U.S. VS. W. MARK FELT, ET AL.
PREPARATION FOR TRIAL (U)

(S)

b1

The attached letter from the Director to the Attorney General has been prepared recommending that the Department arrange for the notification. (U)

The second issue concerns the noninvolvement, to date, and the statutory obligations of the DCI (Admiral Stansfield Turner) with regard to the protection of sources and methods. (U)

We have been assured repeatedly by the prosecution that the Attorney General will receive a damage assessment, not only from the FBI, but from NSA and CIA, to assist him in balancing the prosecutive interest with the damage to the national security. This balancing will most likely occur shortly before trial, but could be called for by the Attorney General as soon as the narrowing of trial disclosure issues, mentioned above, is completed. The request for such a presentation could come, therefore, in two or three weeks. (U)

The consensus of the meeting was that DCI involvement in this damage assessment would be in the interests of the Department, the FBI and the national security. Perhaps it is mandatory in light of the DCI's statutory obligations. (U) *

Executive Assistant Director Mullen can personally explore with AAG Heymann DCI participation in the damage assessment. We should insure that the Department is aware of the advantages of this participation, and that DCI is aware of the potential damage to sources and methods presented by trial disclosures. It is noted that DCI may choose not to participate. (U)

~~SECRET~~

- 3 -

*EX. ORDER 12036, 51-604

Greenberg/Gray-7234

EXEMPTED FROM AUTOMATIC

DECLASSIFICATION

AUTHORITY DERIVED FROM:

FBI AUTOMATIC DECLASSIFICATION GUIDE

EXEMPTION CODE 25X(5)

DATE 05-04-2008

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HEREIN IS UNCLASSIFIED EXCEPT

WHERE SHOWN OTHERWISE

~~SECRET~~

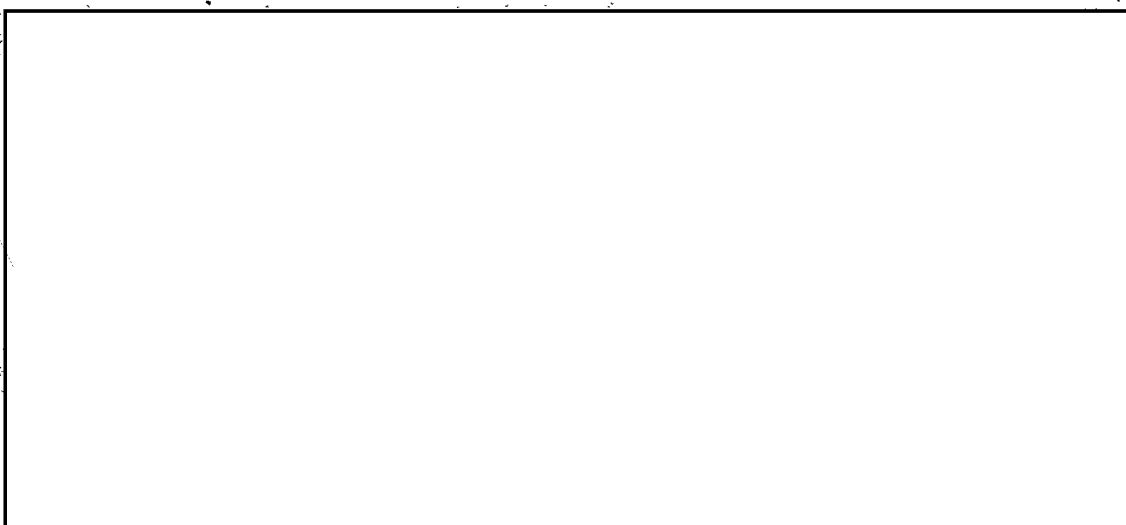
The Attorney General

July 3, 1980

Director, FBI

U.S. vs. W. MARK FELT, et al.

(S)



b1

Special Counsel John W. Nields, Jr., is familiar with the background regarding this disclosure and has a copy of the document containing the information in question. (U)

~~Classified and Extended by 115~~

~~Reason for Extension FCIM II, 1-2.4.2 (1, 2, 3)~~

~~Date of Review for Declassification 7/3/2010~~

~~SECRET~~

NOTE: See memo E. J. O'Malley to Mr. Mullen dated 7/2/80, captioned as above, JLT:tdp.

1 - Mr. Colwell

1 - Mr. Mullen

1 - Mr. Mintz

PVD:mjl (11)

① - Mr. O'Malley

1 - Mr. Revell

1 - Mr. Steel

1 - Mr. Bailey

1 - Mr. Daly

1 - Mr. Tierney

ENCLOSURE

Greenberg/Gray-7235

~~SECRET~~

OFFICE OF DIRECTOR
FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE

July 3, 1980

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Judge,

Attached is the memo we discussed yesterday morning at breakfast relating to the U.S. v. Felt trial. As I indicated then, Mr. Mullen chaired a meeting on Tuesday morning in which the current problems were identified and resolutions developed. The two problems requiring immediate action are (1) [REDACTED]

Mr. Colwell _____
Mr. Mullen _____
Mr. Joseph _____
Mr. Bailey _____
Mr. Bayse _____
Mr. Greenleaf _____
Mr. Long _____
Mr. McKenzie _____
Mr. Mintz _____
Mr. O'Malley _____
Mr. Otto _____
Mr. Revell _____
Mr. Stames _____
Mr. Young _____
Mr. Bruemmer _____
Mr. Hotis _____
Mr. Roin _____
Mr. Steel _____
Tele. Room _____
Miss Devine _____

(S)

[REDACTED] and (2) the need to advise the Department of the FBI's belief that the DCI should participate in the damage assessment which will be done prior to the actual trial in this matter.

b1

With respect to the first of these, [REDACTED] attached is a memo from your to the Attorney General setting forth the FBI's position. [REDACTED]

(S)

[REDACTED] it was believed best that this communication come directly from you to [REDACTED] b1
Exempted from automatic declassification

Authority derived from FBI Automatic Declassification Guide

Exemption code 25X(6) Date 05-04-2009

[REDACTED] en will explore in your absence the possibility of the DCI participating and if any problems arise, you can then address those with the Attorney General after you return. (We have been advised that the Department, at least informally, does not strongly object to DCI participation, and this problem may be resolved prior to your return.)

~~SECRET~~

(CONTINUED F51/D2YER)

~~SECRET~~

Also, we have indications from the District Court's clerk that the trial will be reset for the beginning of August. John Mintz advises that he is continuing his efforts to secure a list of topic areas the defense counsel plan to cover in your testimony and he will provide that to you as soon as it is received

Adrian
Adrian

Greenberg/C

ALS:cwb
(2)

~~SECRET~~

OFFICE OF DIRECTOR
FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE

~~SECRET~~

Mr. Colwell _____
Mr. Mullen _____
Mr. Joseph _____
Mr. Bailey _____
Mr. Bayse _____
Mr. Greenleaf _____
Mr. Long _____
Mr. McKenzie _____
Mr. Mintz _____
Mr. O'Malley _____
Mr. Otto _____
Mr. Revell _____
Mr. Stames _____
Mr. Young _____
Mr. Bruemmer _____
Mr. Hotis _____
Mr. Roin _____
Mr. Steel _____
Tele. Room _____
Miss Devine _____

~~SECRET~~

UNITED STATES GOVERNMENT

Memorandum

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Exec AD Inv. _____
 Exec AD Adm. _____
 Exec AD LES _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
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 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

TO: *WZB* Mr. Bailey

DATE: 7/24/80

FROM: *JEV* L. E. DeanSUBJECT: UNITED STATES OF AMERICA
VS. FELT AND MILLER

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 05-04-2009 BY 65179 dmh/baw/sbs

PURPOSE: To record contacts between the Department of Justice (DOJ) Security Office and FBI employees who are being interviewed in connection with the inadvertent disclosure of sensitive classified information in captioned litigation matter.

RECOMMENDATION: None. For information.

APPROVED:

Director _____
 Exec. AD-Inv. _____
 Exec. AD-Adm. _____
 Exec. AD-LES _____

Adm. Serv. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____

Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. *WZB* _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____

DETAILS: On 6/13/80, sensitive FBI documents were inadvertently released by DOJ personnel to defense counsel in captioned matter. While these documents have been recovered, the DOJ Security Office is conducting an inquiry to ascertain the circumstances surrounding their inadvertent disclosure.

In that regard, [redacted] DOJ Security Office, has indicated he will be interviewing FBI personnel who have, or may have, knowledge of the particular documents and the circumstances surrounding their inadvertent disclosure. [redacted]

b6
 b7C

62-118045

- 1 - Mr. Bailey
- 1 - Mr. Dean
- 1 - Mr. Downum

PD:dmh
 (4)

66 AUG 8 1980

62-118045-278
(CONTINUED - OVER)

JUL 28 1980

file 4

Memorandum from L. E. Dean to Mr. Bailey
Re: United States of America
vs. Felt and Miller
Bufile 62-118045

point of contact at the Bureau will be with Unit Chief [redacted] Classification Training, Review and Clearances Unit, Document Classification and Review Section, Records Management Division, to coordinate arrangements for all interviews.

b6
b7C

On 7/10/80, [redacted] requested assistance for making arrangements for interview of [redacted] in connection with his inquiry. [redacted] was advised [redacted] is on temporary assignment to DOJ for the Felt and Miller case and may be reached on extension 4763.

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On 7/11/80, [redacted] requested assistance for arranging an interview with Joseph L. Tierney. Mr. Tierney was subsequently interviewed by [redacted] who also received an on-site review of their working space on 7/11/80.

b6
b7C

1 - Mr. Colwell
1 - Mr. Mullen, Jr.
1 - Mr. Mentz
1 - Mr. Revelle
1 - Mr. Bailey
1 - Mr. O'Malley
1 - Mr. Steel

July 22, 1930

The Deputy Attorney General

Francis M. Mullen, Jr., Executive
Assistant Director, Investigations

U. S. VS. W. MARK FELT, ET. AL.
PREPARATION FOR TRIAL

FEDERAL GOVERNMENT

Reference is made to your discussion on July 22, 1930, with Deputy Assistant Director (DAD) James E. Nolan of this Bureau concerning the preparation of a damage assessment with regard to intelligence sources and methods in connection with captioned prosecution.

The FBI is currently preparing such an assessment of the FBI documents furnished to the defense and Director Webster has agreed that it would be appropriate in this instance for the Attorney General to present the FBI's damage assessment to the Director of Central Intelligence (DCI) for his views. This would be appropriate as the DCI is the responsible officer for the protection of U.S. intelligence sources and methods. To enable the DCI to have a total picture you may desire to request the Central Intelligence Agency (CIA) and the National Security Agency (NSA) to make assessments of their documents for the DCI's review.

The FBI's assessment will be provided to the Attorney General early next week and therefore it would appear most beneficial if the CIA and NSA assessments could be provided to the DCI no later than July 31, 1930.

If you desire to contact NSA or CIA to request such assessments the requests could be made to their General Counsels who are familiar with the documents their agencies have produced for the defense in this matter, namely, Messrs. Daniel Schwartz and Daniel Silver, respectively.

62-118045-279

Exec AD Inv. _____
Exec AD Adm. _____
Exec AD LES _____
Asst. Dir.: _____
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Intell. _____
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Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

JEN:mjt (11)

JUL 24 1930

see note page 2

RECEIVED ON 7-22-80
DELIVERED TO Judge Renfro
AG'S OFFICE ON 7-22-80
Bew

MAIL ROOM ☐

Greenberg/Gray-7241

FBI/DOJ

The Deputy Attorney General

NOTE:

On July 18, 1980, AD O'Malley attempted to contact Judge Renfrew to advise him of the Director's decision in this matter but Judge Renfrew was out of the city and arrangements were made for DAD Nolan to see Judge Renfrew on the morning of July 22, 1980. DAD Nolan advised Judge Renfrew of the FBI's preparation of the damage assessment and of the need for similar assessments by CIA and NSA if the DCI were to have a total picture of the potential damage so that he might advise the Attorney General concerning the damage to U.S. intelligence which might result from disclosures anticipated at the trial.

Judge Renfrew asked DAD Nolan if he would provide him with a short memorandum concerning their discussion that he might use in his discussion with the Attorney General. DAD Nolan advised the memorandum would be to him on this date.

APPROVED:

Director _____
Exec. AD-Inv. _____
Exec. AD-Adm. _____
Exec. AD-LES _____

Adm. Serv. _____
Crim. Inv. _____
Ident. _____
Intell. EDN
Laboratory _____

Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____

Memorandum

~~CONFIDENTIAL~~



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AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE: 25X(1,6)
DATE 05-04-2009
FBI INFORMATION ONLY

FEDERAL GOVERNMENT

Subject

Investigation Re.: Inadvertent Disclosure of
Sensitive Compartmented Information in the
Case of U.S. v. Felt/Miller
THRU: D. Jerry Rubino, Director

Date

July 14, 1980

MARK Felt

To: Security Programs Staff, JMD

To

Security Officer
Federal Bureau of Investigation

From

Investigation Officer

b6
b7C

An integral part of the above-captioned investigation is to determine when, where, and how the Sensitive Compartmented Information (SCI) involved in the above-captioned case left the requisite SCI control channels. (u)

In this regard, you are requested to provide us with answers to the following questions:

- (S) o When material is released from the Special File Room, is it always properly marked, controlled, and kept within SCI channels? ~~(S)~~ ^{b1}
- (S) o When material is provided to the Department's prosecution team, is it always properly marked, controlled, couriered by an SCI cleared courier, and receipted for pursuant to U.S. Intelligence Community directives? ~~(S)~~ ^{b1}
- (S) o Is Room 4859, FBI Headquarters Building, in which material is presently stored, a U.S. Intelligence Community approved SCI Storage Facility (SCIF)? If so, please provide us with a copy of the letter of certification. ~~(S)~~ ^{b1}
- o Has Room 4859, FBI Headquarters Building, been certified by your office or any FBI official for the open storage of National Security Information (SCI)? If so, please provide us with a copy of the letter of certification. (u)
- (S) o With the exception of certain material, the remainder of the FBI classified NSI being processed in Room 4859, FBI Headquarters Building as part of the above-captioned case, is being stored in file cabinets. This appears to be in contravention with National and departmental level regulations. If these file cabinets

62-118045-281

*ACIC
7/31/80
JLW/yek*

Greenberg/Gray-7243

59 SEP 18 1980

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ORIGINAL CL BY DIR, NSA
☐ DECL ☒ REVW ON 7-14-2000
EXT BYND 6 YRS BY DIR, NSA
REASON FOI

~~CONFIDENTIAL~~

- 2 -

have been authorized for the storage of classified NSI, please provide us with a copy of the instrument by which the FBI has authorized such storage. ~~(S)~~

- (S) o Are all employees of the Records Management Division, who have unescorted access to Room 4859, FBI Headquarters Building, cleared for special access to SCI, specific access to the [redacted] and do all such employees have a need-to-know with regard to the non-SCI classified NSI material stored in this room in support of the above-captioned case? ~~(S)~~ b1
- (S) o Have the following FBI employees assigned to assist in the production of case-related material been indoctrinated for SCI and specifically briefed on the [redacted]? If so, please provide the dates of such briefings and a copy of their respective SCI indoctrination oaths: ~~(S)~~ b1



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Your expeditious response to these questions will greatly assist in the processing of this investigation.

Greenberg/Gray-7244

~~CONFIDENTIAL~~

Date of Mail 8-8-80

Classification of Mail:

- ☐ Unclassified
☐ Confidential
☐ Secret
☒ Top Secret
☐ SCI

Mail Category

Letter _____ Airtel _____
LHM _____ Memo XX
Report _____ Other _____
Teletype _____

Subject FELT, MARK

Originator of Material FBIHQ

This serial has been removed and placed in the Special File Room of Records Branch.

Authority - 62-116065

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-04-2009 BY 60324 uc baw/dk/sbs

File Number 62-118045-280

PERMANENT SERIAL CHARGE-OUT

Greenberg/Gray-7245

~~SECRET~~

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

~~CONFIDENTIAL~~

Exec AD Inv. _____
Exec AD Adm. _____
Exec AD LES _____
Asst. Dir.:
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

TO : Mr. O'Malley

DATE: 7/17/80

FROM : L. Bailey

SUBJECT: INADVERTENT DISCLOSURE OF

(S) DAMAGE ASSESSMENT (S)

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b7C

MARK W. Felt

PURPOSE: To advise of status of inquiry concerning the inadvertent disclosure of information and results of damage assessment. (S)

SYNOPSIS: On 6/13/80, three FBI documents concerning the [redacted] were inadvertently provided by the Department of Justice (DOJ) to defense counsel in the case of United States v. Felt and Miller. Discussion with D. Jerry Rubino, DOJ Security Officer, on 6/20/80 determined the matter to be referred to the Office of Professional Responsibility (OPR). On 6/24/80, Mr. Rubino advised DOJ OPR will make inquiry into the matter. The FBI was requested to make a damage assessment of the inadvertent disclosure. FBI assessment reveals damage to the national security unlikely and recommendation for administrative action is not warranted. (S)

RECOMMENDATION: None. For information. (U)

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE: 25X(1,6)
DATE 05-04-2009

APPROVED:

Director _____
Exec. AD-Inv. _____
Exec. AD-Adm. _____
Exec. AD-LES _____

Adm. Serv. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____

Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____

ENCLOSURE

Enclosure

62-118045

- 1 - Mr. O'Malley
- 1 - Mr. Bailey
- 1 - Mr. Tierney

DD:dmj (6)

60 NOV 25 1980 ~~CONFIDENTIAL~~

Classified and Extended by 8160
Reason for Classification - FCIM II, 1-2.4.2 (2)
Date of Review for Declassification July 17, 2000

(CONTINUED OVER)
20 SEP 3 1980

1 - Mr. Dean

1 - [redacted]

See Details Page 2

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Greenberg/Gray-7246

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~~CONFIDENTIAL~~

Memorandum from W. L. Bailey to Mr. O'Malley
Re: Inadvertent Disclosure of

(S) [redacted] b1
Damage Assessment (S)

(S) DETAILS: On 6/13/80, three FBI documents concerning the [redacted] were inadvertently provided by DOJ to defense counsel in the case of United States v. Felt and Miller. These documents are identified as follows:

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(S)

[redacted]

~~(S)~~

On 6/20/80, Unit Chief [redacted] Classification Training, Review and Clearances Unit, Document Classification and Review Section, Records Management Division, met with Mr. Rubino to discuss the current status of captioned matter.

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(U)

(S) Mr. Rubino advised he had received a statement from H. W. Nields, Jr., Criminal Division, DOJ, regarding details of how [redacted] information had been inadvertently disclosed to defense counsel personnel (see enclosure). (S)

Mr. Rubino concurred that Mr. Nields' memorandum did not sufficiently address all areas necessary for a proper damage assessment to be performed. Questions such as (a) the identity of all individuals who actually reviewed the sensitive material; (b) the identity of all individuals who may have had access to the disclosed material; (c) length of time, if any, the material was left unattended or otherwise left unsecured; (d) do the individuals who viewed the material possess the necessary clearances; (e) the likelihood of a further inadvertent disclosure of the information to other unauthorized personnel or inadvertently referring to the information directly or indirectly at trial, and other similar questions. (U)

(CONTINUED - OVER)

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~~CONFIDENTIAL~~

Memorandum from W. L. Bailey to Mr. O'Malley
Re: Inadvertent Disclosure of

(S) ~~(S)~~ b1
Damage Assessment

Mr. Rubino advised he had collected the basic facts as to what had happened, would refer his findings to the DOJ OPR and suggested the FBI defer any inquiry pending a response from DOJ OPR. (U)

On 6/24/80, Mr. Rubino advised DOJ OPR is undertaking an inquiry into the inadvertent disclosure of sensitive information and requested that the FBI not make any inquiries outside its agency. The FBI should make a damage assessment concerning the incident, however. (U)

Pending the receipt of DOJ OPR findings, there is little reason to expect damage to the national security as a result of the inadvertent disclosure since: (U)

- (1) The individuals known (at this time) to have had possession of the material were subject to a background investigation and were determined to be trustworthy. (U)
- (2) Clearances were granted, based upon the background investigation, for them to review national security information on a need-to-know basis. (U)
- (3) There is no reason, at present, to believe any of the individuals who reviewed the material will reveal this information to any other person, either "cleared" or "uncleared." (U)

Therefore, while sensitive information was given to cleared individuals who did not have a need-to-know, and while there was a breakdown in the administrative procedure for passing approved material

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- 3 -

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Greenberg/Gray-7248

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~~CONFIDENTIAL~~

Memorandum from W. L. Bailey to Mr. O'Malley
Re: Inadvertent Disclosure of

(S)

Damage Assessment (S) b1

to the defense counsel, this does not appear to be a security violation which will result in any identifiable damage to the national security. No recommendation for administrative action is warranted at this time. Personnel involved have been cautioned to exercise greater care when handling sensitive, classified information. (U)

Upon receipt of results of DOJ OPR inquiries, a determination will be made by the FBI Security Officer and the Senior Intelligence Officer as to any further action warranted. (U)

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- 4 -

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Greenberg/Gray-7249

Memorandum

TO : D. Jerry Rubino
Justice Management Division

DATE: June 18, 1980

FROM : John W. Nields, Jr. *John W. Nields, Jr.*
Criminal Division

SUBJECT: Inadvertant Disclosure of Classified Material

On Friday, June 13, 1980, I handed to both defense counsel in the case of United States v. Felt and Miller a package of classified documents. They had been redacted in conformity to the instructions of the originating agency so that they could be introduced in evidence at trial with the consent of that agency. Unfortunately, as I later determined two unredacted documents were inadvertently attached to the redacted trial documents. When this was discovered a few hours later, the entire packages were retrieved. They were neither copied nor shown to uncleared personnel.

The unredacted documents were included in the package as the result of a series of errors. First, my para-legal, [redacted] requested the FBI to supply a cleaner copy of two or more of the trial documents. When the clean copy was received she redacted it for trial use. In two cases, the FBI had attached to the clean copy another document which had not been requested.

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After [redacted] had redacted the trial documents, I reviewed them. I noticed that some trial documents had other documents attached. Each such document was covered with a note reading "Do Not Xerox". I did not read the documents. When I finished reading the trial documents I instructed that they be xeroxed and sent to defense counsel. Our xerox machine was broken and the documents were delivered to the FBI for xeroxing. Four copies of each document were made, and four packages were returned to our offices. Apparently, the unredacted attached documents were also xeroxed. Neither I nor any on my staff reviewed the xeroxed packages after they returned from the FBI and before they were delivered by me to defense counsel. Plainly, this should have been done.

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ALL FBI INFORMATION CONTAINED
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DATE 05-04-2009 BY 65179 dmh/baw/sbs



62-118045-281X

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

Form OBD-197
MAY 1978

Greenberg/Gray-7250

In addition, on retrieving the documents I discovered that on six of them classification markings which should have been redacted were not. I and one other member of my staff have now reviewed all the trial documents again. So have security people from the NSA. No additional errors have been found.

The two unredacted documents have been removed from the packages. The errors in redacting the trial documents have been corrected. The packages are being re-delivered to defense counsel.

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EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1,6)
DATE 05-04-2009

July 31, 1980 (U)

[redacted] Security Officer (U)

FEDERAL GOVERNMENT b6
b7C

INADVERTENT DISCLOSURE OF SENSITIVE COMPARTMENTED
INFORMATION IN THE CASE OF U.S. VS. FELT/MILLER (U)

Mr. D. Jerry Rubino, Director
Security Programs Staff
Justice Management Division (U)

MARK Felt

Reference is made to the memorandum of Investigation
Officer [redacted] dated July 14, 1980, requesting
answers to seven specific questions regarding captioned
matter. (U)

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(S) Question 1: When [redacted] material is released from the
Special File Room, is it always properly
marked, controlled, and kept within SCI channels? (S)

b1

(S) Question 2: When [redacted] material is provided to the
Department's prosecution team, is it
always properly marked, controlled, couriered by an
SCI cleared courier, and receipted for pursuant to
U.S. Intelligence Community directives? (S)

b1

62-118045

1 - Mr. O'Malley
1 - [redacted]
1 - [redacted]

b6
b7C

1 - Mr. Bailey
1 - Mr. Tierney

JLS:vek
(8)

~~CONFIDENTIAL~~

Paragraphs followed by (8160) have been classified
originally. Other classified paragraphs are classified
derivatively from DOJ report dated 7/14/80 with above caption. (U)

Classified and Extended by Multiple Sources
Reason for Extension FCIM II, 1-2.4.2 (2)
Date of Review for Declassification July 31, 2000

62-118045-282

23 AUG 7 1980

MAILED 13
JUL 31 1980
FBI

Exec AD Inv. _____
Exec AD Adm. _____
Exec AD LES _____
Asst. Dir.:
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

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Greenberg/Gray-7252

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D. Jerry Rubino, Director

Answers to Questions 1 & 2: Since 1976 The Department of Justice prosecution team, in above captioned case, due to their stated exigencies of the situation, has obtained possession of FBI documents, including Sensitive Compartmented Information (SCI) [redacted] which were not properly marked, controlled, and kept within SCI channels, couriered by an SCI cleared courier nor receipted for pursuant to U.S. Intelligence Community directives. [redacted] may recall the incident in 1978, when after consultation with the FBI Security Officer, he personally removed unprocessed compartmented information from the prosecution teams office to secure it in the Department Security Office safe. (S) (8160)

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The FBI has expressed consistent concern since that time, both verbally and in writing, with Department of Justice personnel being in possession of extremely sensitive National Security Information and material without being placed on notice as to its sensitivity pursuant to U.S. Intelligence Community directives; i.e., FBI processing for markings, receipts, et. al. Efforts of a former FBI Security Officer to remedy the situation resulted in his being disqualified from further contact with captioned case by written directive from the Department of Justice. (U)

Question 3: Is Room 4859, FBI Headquarters Building, in which [redacted] material is presently stored, a U.S. Intelligence Community approved SCI Storage Facility (SCIF)? If so, please provide us with a copy of the letter of certification. (S) (U)

b1

Question 4: Has Room 4859, FBI Headquarters Building, been certified by your office or any FBI official for the open storage of National Security Information (SCI)? If so, please provide us with a copy of the letter of certification. (U)

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Greenberg/Gray-7253

~~SECRET~~

~~CONFIDENTIAL~~

D. Jerry Rubino, Director

(S) Question 5: With the exception of certain [redacted] material, the remainder of the FBI classified NSI being processed in Room 4859, FBI Headquarters Building as part of the above-captioned case, is being stored in file cabinets. This appears to be in contravention with National and departmental level regulations. If these file cabinets have been authorized for the storage of classified NSI, please provide us with a copy of the instrument by which the FBI has authorized such storage. (S) b1

Answers to Questions 3, 4 & 5: Director of Central Intelligence Directive 1/19, effective June 6, 1978, entitled Uniform Procedures for Administrative Handling and Accountability of Sensitive Compartmented Information (SCI), paragraph 2 (a) states "The Central Intelligence Agency will be responsible for accrediting those SCI facilities within organizations not under the security cognizance of an Intelligence Community Senior Intelligence Officer (SIO)." (U)

Paragraph 1 (d), of same Directive, defines an Intelligence Community Senior Intelligence Officer as "those officials who represent their departments or agencies on the National Foreign Intelligence Board (NFIB)." (U)

(U) The Assistant Director, Intelligence Division, Federal Bureau of Investigation, is an SIO and has accredited Room 5991 (Special File Room) as a permanent storage facility for SCI after informal inspections of the JEH building (FBI Headquarters) by a representative from the Special Security Center, Central Intelligence Agency. No "letter of certification" is required nor maintained by the FBI SIO. (S) (3160)

The FBI JEH Building operates on a "closed building concept". All FBI personnel are cleared for "Top Secret" access. Noncleared personnel must be escorted. The Federal Protective Service maintains a 24 hour perimeter security patrol, accompanied by a 24 hour internal security patrol by FBI employees. Additional security systems include closed circuit television, electronic alarms, restricted areas and special keying requirements. (U)

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- 3 -

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Greenberg/Gray-7254

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~~CONFIDENTIAL~~

D. Jerry Rubino, Director

Room 4859, JEH Building (FBI Headquarters) is part of a restricted access area, requiring special identification to be presented at guarded check points and requiring special access keys after normal duty hours to gain entrance through locked doors. Being located on the fourth floor of a building under 24 hour armed perimeter guard with additional 24 hour internal patrol, the SIO is satisfied that no forced entry may be gained through windows or exterior walls. In any event, closed circuit television provides immediate response to any such attempt. (U)

(U) Room 4859, JEH Building (FBI Headquarters), is an SIO authorized facility for review of National Security Information by appropriately cleared personnel with a need-to-know including material designated Top Secret and SCI. In addition, Room 4859 and the surrounding area is an SIO authorized facility for permanent open storage of National Security Information up to Top Secret and temporary storage of SCI material. (S) (8160)

At a meeting of the Departmental Review Committee 7/19/72, in response to the Bureau's request, Departmental Regulations covering this point were changed to accommodate us, specifically to allow for the storage of classified material in non-safe type cabinets where our files were kept under continuous surveillance by supervisory personnel and security patrols. No "letter of certification" is required nor maintained by the FBI SIO. (U)

(S) Question 6: Are all employees of the Records Management Division, who have unescorted access to Room 4859, FBI Headquarters Building, cleared for special access to SCI, specific access to the [redacted] and do all such employees have a need-to-know with regard to the non-SCI classified NSI material stored in this room in support of the above-captioned case? (S) b1

(S) Question 7: Have the following FBI employees assigned to assist in the production of case-related material been indoctrinated for SCI and specifically briefed on the [redacted] If so, please provide the dates of such briefings and a copy of their respective SCI indoctrination oaths: (S) b1

~~CONFIDENTIAL~~

~~SECRET~~

~~CONFIDENTIAL~~

D. Jerry Rubino, Director



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b7C

Answers to Questions 6 & 7: All employees of the Records Management Division are cleared to ~~Top Secret~~. [redacted] assigned to captioned matter, were given SCI indoctrination on 9/12/79 and 1/26/79, respectively. If other employees assigned to assist for short periods of time request documents from the Special File Room that are SCI material, they are refused and the documents are picked up by [redacted]. Any production of SCI materials in captioned matter is handled by [redacted].

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(U)

[redacted] (S) (8160)

Note: Referenced memorandum of investigation Officer [redacted] [redacted] DOJ, dated 7/14/80 inquired into security procedures of FBI and security of certain FBI space. Bureau responses provided to set forth procedures in FBI to maintain sensitive material in secure fashion.

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~~CONFIDENTIAL~~

Memorandum



Exec AD Inv. _____
Exec AD Adm. _____
Exec AD LES _____
Asst. Dir. _____
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

To : Mr. Long

Date 7-21-80

From : J. L. Williamson

Subject : U.S.V. FELT, et. al.

PURPOSE:

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-04-2009 BY 65179 dmh/baw/sbs

To advise that John Nields, Special Prosecutor, Department of Justice in captioned matter, requested certain information from the FBI Manual of Instructions.

On 7-16-80, Mr. Nields contacted the Performance, Recognition and Awards Unit (PRAU) requesting access to the Manual of Instructions and to the FBI Special Agent Handbook as set forth below:

Manual of Instructions - Vol. I, Section 2, pages 20, 21, 22, 23 and 24

FBI Handbook for Special Agents - Part II, pages 14b, 14bb, 14c, 14cc, 14d, 14e, 14f, 14g, 14h, 14i and 14j

As they appeared as of 7-1-72, and any changes to 7-1-73.

After reviewing these documents, he requested copies. Copies of these sections have been made for Mr. Nields and will be furnished to him. He has been advised that this material is available for him presently. Copies of these documents will be maintained in the PRAU for further reference.

DOC:bm (3)

- 1 - Mr. Coulson
- 1 - Mr. Daly

SEP 5 1980

ENCLOSURE

APPROVED:

Director _____
Exec. AD-Inv. _____
Exec. AD-Adm. _____
Exec. AD-LES _____

Adm. Serv. _____

Crim. Inv. _____

Ident. _____

Intell. _____

Laboratory _____

Legal Coun. _____

Plan. & Insp. _____

Rec. Mgnt. _____

Tech. Servs. _____

Training _____

Public Affs. Off. _____

SEP 24 1980

Greenberg/Gray-7257

FBI/DOJ

SECTION 2. ARRESTS, INTERVIEWS AND CONFESSIONS,
SEARCHES AND SEIZURES

C. SEARCHES AND SEIZURES

[Information on the law of search and seizure is contained in Bureau monographs on this subject furnished to all offices.]

1. Deleted
2. Bureau instructions
 - a. Deleted
 - b. Deleted
 - c. Deleted
 - d. Immunity of representatives of foreign governments and their property from arrest
 - (1) Diplomatic representatives of foreign governments in the U. S. are exempt from arrest by all officers, Federal or state.
 - (2) Officers of either Federal or state governments may not enter the office or dwelling of these representatives for the purpose of making an arrest, search, or seizure.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-04-2009 BY 65179 dmh/baw/sbs

62-118045-283

- (3) There are two types of immunity granted to representatives of foreign governments:
 - (a) Territorial immunity -- It applies to all embassies, legations, and consulates and, consequently, no Agent of the Bureau should ever attempt to enter any embassy, legation, or consulate for the purpose of making any arrest, search, or seizure. This territorial immunity extends to both the offices and residences of ambassadors and ministers, but only to the office of a consul and not to his residence.
 - (b) Personal immunity -- It applies to ambassadors and ministers, members of their staffs and domestic servants; consequently, no Agent should ever attempt to cause the arrest or detention of any person included in these classifications. The personal immunity applies to the staffs and domestic servants, irrespective of the citizenship of the members of the staff or servants. It will be noted that personal immunity is not granted ordinarily to consuls from arrest on misdemeanor charges. In the event the arrest of a consul is contemplated, the Bureau should be immediately notified by telephone or teletype before any action is taken in order that an appropriate check may be made with the State Department to determine whether the consul involved has any special immunity.
- e. [Searching military personnel on Government reservations
Military personnel, their personal effects, and their living quarters on Government reservations may be searched legally by other military personnel on authority of a commanding officer having jurisdiction at that place. Evidence found may be introduced at criminal trial in Federal district court. Department of Justice memorandum 2-5-48; Grewe v. France, 75 F. Supp. 433 (1948); U. S. v. Grisby, 335 F. (2d) 652 (1964). Neither search warrant, consent, nor an arrest to which the search is incidental is needed. The search should be made by military personnel.]
- f. Marking evidence for identification
 - (1) All articles legally seized as evidence should be carefully marked for identification. These markings should be of such a character as not to injure the evidence itself. They should be made in such a manner as to preclude the possibility of the marks being obliterated. Their character should be such as to make it possible for the person or persons who obtained the evidence to testify at a later date that this particular article was found at a certain place at a certain time. Each mark should be distinctive; therefore, an "x" should never be used. Evidence obtained and placed in containers or cellophane envelopes should be appropriately identified. (See section 8 of this manual.)
 - (2) Detailed notes should be made describing the articles found, the place they were found, the date found, and the person who found them and the identifying mark on each. The original notes should be preserved in the investigative file of the case for use by the Agent when he is called upon to testify at the trial.
 - (3) If any of the evidence contains identifying numbers, such as found on guns or lottery tickets, these numbers should be recorded by the Agent finding the article and the original notes preserved.
- g. Inventory and receipt for property obtained through search and seizure
 - (1) During the course of a search incidental to a lawful arrest or by consent with the use of a waiver, form FD-26, if money, property, documents, or anything of value is seized from the premises or the person subjected to the search, an itemized list in duplicate (triplicate if by search warrant) of all such money, property, documents, or other things of value shall be made. Extreme care should be exercised to insure that the description of all items obtained is adequate and accurate.

Greenberg/Gray-7259

SECTION 2. ARRESTS, INTERVIEWS AND CONFESSIONS,
SEARCHES AND SEIZURES

The following certificate shall be set forth at the conclusion of the itemized list and shall be witnessed by at least two Agents or one Agent and another person. If the subject or the person from whom the property, money, or other things of value are obtained refuses to sign the certificate a notation should be made indicating the reason for refusal.

This is to certify that on _____ at _____, Special Agents of the Federal Bureau of Investigation, U. S. Department of Justice, at the time of conducting a search of my person and/or the premises at _____ obtained the above-listed items. I further certify that the above represents all that was obtained by Special Agents of the Federal Bureau of Investigation, U. S. Department of Justice.

(SIGNED) _____

Witnessed:

Special Agent
Federal Bureau of Investigation
U. S. Department of Justice

Special Agent
Federal Bureau of Investigation
U. S. Department of Justice

One copy of this itemized list shall be furnished the subject or the person from whose premises the property, including documents or other things of value, was obtained, as a receipt. The original of this itemized list, along with the certificate attached, shall be included in the exhibit envelope of the case file.

- (2) Where a search of premises is conducted under a search warrant, the itemized list and certificate shall be prepared in triplicate since the law requires that the original thereof shall be returned to the U. S. [Magistrate] or district court judge issuing the search warrant. One copy of this itemized list as an inventory, together with a copy of the search warrant, shall be turned over to the subject as provided for in rule 41 of the Federal Rules of Criminal Procedure.
- (3) Whenever an Agent conducting a lawful search under a search warrant, incidental to lawful arrest, or by consent with the use of a waiver, does not seize or obtain any property or anything else of value the following certificate shall be obtained:

Greenberg/Gray-7260

SECTION 2. ARRESTS, INTERVIEWS AND CONFESSIONS,
SEARCHES AND SEIZURES

2C

This is to certify that on _____ at _____ Special Agents of the Federal Bureau of Investigation, U. S. Department of Justice, conducted a search of the premises at _____ occupied by me. I certify that nothing was removed from my custody by Special Agents of the Federal Bureau of Investigation, U. S. Department of Justice.

(SIGNED) _____

Witnessed:

Special Agent
Federal Bureau of Investigation
U. S. Department of Justice

Special Agent
Federal Bureau of Investigation
U. S. Department of Justice

The provisions of the preceding section shall also apply to the procedure set forth in this section.

- h. Counting recovered money
Whenever money or other property consisting of numerous items requiring counting is obtained in connection with Bureau investigations, the money or property should be independently counted by two Agents and their results compared for the purpose of verifying the accuracy of the count and detecting any errors.
- 3. Bureau policy
 - a. Search warrants should be obtained in all cases wherever possible. Efforts to have search warrant issued, whether successful or not, should be reported. A copy of every affidavit filed by an Agent is to be obtained and filed as a serial in the case file.
 - b. USA's authority is necessary before applying for a search warrant.
 - c. [Deleted]
 - d. Searches and seizures must be planned and conducted in as short a period of time as reasonably possible.
 - e. There must be no exploratory searches. Extreme care should be used at all times to avoid a situation which would preclude the Bureau from adequately refuting and emphatically denying any accusation of ransacking.
- 4. Searches and seizures by state, local, or foreign officers
Relevant evidence seized independently by state, local, or foreign officers must be called to the attention of the USA promptly and described in the next investigative report so that attention will be directed early to the circumstances of its seizure. All evidence seized illegally by state or local law enforcement officers is inadmissible in court, regardless of the jurisdiction of the officer by whom it was seized or the court in which it is presented. *Mapp v. Ohio*, 367 U. S. 643 (1961). Legality is to be tested by the Federal standard, however, with the result that a Federal court may uphold a seizure previously held illegal by a state court. Relevant evidence seized by foreign law enforcement officers in their own country and acting on their own initiative may be admissible in a U. S. court even though the evidence was not obtained in conformance with fourth amendment standards. *Brulay v. U. S.*, 383 F. (2d) 345 (1967).

Greenberg/Gray-7261

SECTION 2. ARRESTS, INTERVIEWS AND CONFESSIONS, SEARCHES AND SEIZURES

5. U. S. Bureau of Customs searches
The Department has expressed the view that should a Customs officer lawfully conducting an investigation for customs purposes request the assistance or presence of a Bureau Agent, the presence of such Agent and his participation in questioning the individual being searched would not invalidate an otherwise legal search or seizure. The Department further stated that the U. S. customs service by statutory enactment has the right to search without a warrant and without placing under arrest aliens or citizens entering the U. S. The Bureau's policy with reference to diplomatic personnel or similar official personnel of foreign governments is not to request or conduct an examination or search of their baggage or other material under their control without first obtaining the permission of the State Department. When information is received that an individual assigned to the diplomatic staff of a foreign government is carrying material of importance to the national security of the U. S., the permission of the State Department is requested to have the search effectuated.

The local office of the Bureau of Customs should be requested to effect a search of the material in the possession of individuals who do not have any official status when, in the opinion of the field, it is believed that something of value will be ascertained (see Manual of Rules and Regulations, part II, section 8B, re placing stops with INS). Bureau Agents may be present at such an examination in the capacity of an observer only.

[6. Discovery and inspection

[A Federal court may order the Government to permit the defendant, prior to
[trial, to inspect, copy, or photograph books, papers, documents, tangible
[objects, buildings, or places, upon a showing of materiality and reason-
[ableness. This will include items of physical evidence obtained by search
[and seizure but it does not apply to investigative reports, memoranda,
[other internal Government documents, or to statements made by witnesses.
[However, upon a sufficient showing, the court may at any time order that
[the discovery or inspection be denied, restricted, or deferred, or make
[such other order as is appropriate. (Rule 16.)]

D. HABEAS CORPUS PROCEEDINGS; REFUTING FALSE ALLEGATIONS

1. Departmental instructions

By Departmental Circular #4004, Supplement #1, dated 12-29-47, the Department instructed all USAs to immediately notify the SAC of the office covering their judicial district whenever habeas corpus proceedings are filed in cases investigated by the FBI.

2. Bureau instructions

- a. It is the responsibility of each SAC to insure immediate notification of his office regarding the filing of habeas corpus proceedings in cases investigated by the FBI. Where such proceedings are filed, the Bureau must be immediately advised of all pertinent facts and developments. Copies of petitions for writs of habeas corpus and other pleadings and briefs in such proceedings must be immediately obtained and forwarded to the Bureau. It is the responsibility of each SAC to take appropriate action to insure the complete refutation of all false allegations of mistreatment, misconduct, or otherwise on the part of Agents which may be raised in such habeas corpus proceedings. The official court records in each instance must clearly show a thorough and complete refutation of such false allegations.
- b. Whenever, during the course of a trial in either Federal or state courts, derogatory statements or false allegations of misconduct, brutality, or other illegal treatment are made against Agents of the FBI, immediate steps are to be taken by the Agents present through the USA or state prosecutor to insure a complete refutation on the official court record of such false statements or allegations. Agents in attendance at such trials should immediately advise the SAC of the field office where the case is being tried of the facts concerning such derogatory statements and false allegations. It is the responsibility of the SAC to determine if the false statements and allegations are adequately refuted on the official court records and to promptly advise the Bureau of all pertinent facts and circumstances.

Greenberg/Gray-7262

SECTION 2. ARRESTS, INTERVIEWS AND CONFESSIONS,
SEARCHES AND SEIZURES

The following certificate shall be set forth at the conclusion of the itemized list and shall be witnessed by at least two Agents or one Agent and another person. If the subject or the person from whom the property, money, or other things of value are obtained refuses to sign the certificate a notation should be made indicating the reason for refusal.

This is to certify that on _____ at _____, Special Agents of the Federal Bureau of Investigation, U. S. Department of Justice, at the time of conducting a search of my person and/or the premises at _____ obtained the above-listed items. I further certify that the above represents all that was obtained by Special Agents of the Federal Bureau of Investigation, U. S. Department of Justice.

(SIGNED) _____

Witnessed:

Special Agent
Federal Bureau of Investigation
U. S. Department of Justice

Special Agent
Federal Bureau of Investigation
U. S. Department of Justice

One copy of this itemized list shall be furnished the subject or the person from whose premises the property, including documents or other things of value, was obtained, as a receipt. The original of this itemized list, along with the certificate attached, shall be included in the exhibit envelope of the case file.

- (2) Where a search of premises is conducted under a search warrant, the itemized list and certificate shall be prepared in triplicate since the law requires that the original thereof shall be returned to the [Federal magistrate] issuing the search warrant. One copy of this itemized list as an inventory, together with a copy of the search warrant, shall be turned over to the subject as provided for in rule 41 of the Federal Rules of Criminal Procedure.
- (3) Whenever an Agent conducting a lawful search under a search warrant, incidental to lawful arrest, or by consent with the use of a waiver, does not seize or obtain any property or anything else of value the following certificate shall be obtained:

Greenberg/Gray-7263

62-118045-283X

ENCLOSURE

Greenberg/Gray-7264

62-118045-283X

ENCLOSURE

Greenberg/Gray-7275

The Attorney General

July 28, 1980

Director, FBI

U. S. v FELT et al.

Mark W. Felt

In accordance with recent discussions with John W. Nields, Jr. of your staff and the Deputy Attorney General, I am enclosing the attached damage assessment relating to anticipated disclosures of information in the forthcoming trial of this matter. This assessment was prepared by the Intelligence Division of the FBI with assistance from the Criminal Investigative Division as well as our Security Office. The assessment is being sent to you for possible forwarding to the Director of Central Intelligence in connection with his statutory responsibilities to protect sources and methods. The assessment and its attachments are examples of anticipated disclosure problems based on a review of documents marked for trial purposes. Solutions to disclosure problems in connection with this trial are developed periodically and it may well be that some of these specific examples cited in the damage assessment may be resolved. However, in view of the scheduled trial date of August 18th, it is not possible to hold a damage assessment in abeyance pending attempted solution of all the problems.

62-118045-283X

I would like to express appreciation for the sensitivity to national security concerns exhibited by the prosecutors and for their ability to come up with alternate disclosure methods protecting such concerns.

Enclosures

Delivered to Eric Richards with enclosures 7/29/80 pvd.
W H W

- 1 - Mr. Colwell
- 1 - Mr. Mullen
- 1 - Mr. Mintz
- 1 - Mr. O'Malley
- Exec AD Inv. ☒
- Exec AD Adm. ☒
- Exec AD LES ☒
- Asst. Dir.:
 - Adm. Servs. ☒
 - Crim. Inv. ☒
 - Ident. ☒
 - Intell. ☒
 - Laboratory ☒
 - Legal Coun. ☒
 - Plan. & Insp. ☒
 - Rec. Mgnt. ☒
 - Tech. Servs. ☒
 - Training ☒
- Public Affs. Off. ☒
- Telephone Rm. ☒
- Director's Sec'y ☒

PVD:jam (13)

- 1 - Mr. Revell
- 1 - Mr. Steel
- 1 - Mr. Bailey
- 1 - Mr. Tierney

6 OCT 3 1980

62-118045-

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Greenberg/Gray-7291

57 OCT 22 1980
MAIL ROOM

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DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1,6)
DATE 05-04-2009

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WHERE SHOWN OTHERWISE

July 28, 1980

UNITED STATES v. W. MARK FELT, ET AL.

DAMAGE ASSESSMENT

This constitutes the assessment of anticipated damage to the national security and to present and future operations of the FBI as a result of disclosures necessitated by the trial of Messrs. W. Mark Felt and Edward S. Miller now scheduled for August 18, 1980. This assessment responds to a suggestion of Prosecutor John W. Nields, Jr., who indicated his inability to adequately assess the potential national security damage. Mr. Nields requested the FBI submit such an assessment for the consideration of the Attorney General. This assessment speaks only to the potential damage to the FBI and does not purport to speak for other members of the United States Intelligence Community or for the foreign relations interests of the United States. (U)

Attached as exhibits are copies of documents and stipulations as they are presently scheduled for use at trial. The exhibits used were selected from a review of those exhibits and stipulations which were available to us during the week of July 21, 1980. (U)

No attempt has been made to identify, much less to present, every possible situation of potential danger. Instead, a representative collection is presented here. The selection was based upon the review and the recollection of situations which were difficult to satisfactorily solve. Some of these problem areas may be solved completely or in part before the trial commences. The concerns represented by this particular communication, however, will remain in other trial document, testimonial or stipulation situations. (U)

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Classified and Extended by 115
Reason for Extension FCIM II, 1-2.4.2 (1,2&3)
Date of Review for Declassification 7/28/2010

Exec AD Inv. *WJW*
Exec AD Adm. *WJW*
Exec AD LES *WJW*

Asst. Dir.:
Adm. Servs. *WJW* 1-Mr. Colwell
Crim. Inv. *WJW* 1-Mr. Mullen
Ident. *WJW* 1-Mr. Mintz
Intell. *WJW* 1-Mr. O'Malley

1-Mr. Revell
1-Mr. Steel
1-Mr. Bailey
1-Mr. Tierney

SECRET MATERIAL ATTACHED

APPROVED: *WJW*

Director *WJW*
Exec. AD-Inv. *WJW*
Exec. AD-Adm. *WJW*
Exec. AD-LES *WJW*

Adm. Serv. _____ Legal Coun. _____
Crim. Inv. _____ Plan. & Insp. _____
Ident. _____ Rec. Mgnt. _____
Intell. _____ Tech. Servs. _____
Laboratory _____ Training _____
Public Affs. Off. _____

Laboratory _____
Legal Coun. _____
Plan. & Insp. *WJW* JLT/PVD:jam *jam* (13)
Rec. Mgnt. *WJW*
Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

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ENCLOSURE

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United States v. W. Mark Felt, et al.

Our problems center on our protection of sources of information such as foreign governments, informants and casual sources. (U)

In preparing for trial, we have dealt with a considerable amount of foreign government information. With two exceptions, we have been able to substitute nonforeign government information covering the same event or set of facts. The substitute information has either been the subject of a stipulation or the document has been altered to contain non-foreign government information. In either case, the fact that the FBI had the same or similar information which required special handling will be obvious at trial. Because of the nature of these stipulations and/or altered documents, it may be concluded that a foreign government or some other sensitive source has furnished the same information. (U)

The term casual source describes a large group of people who furnish information to the FBI. Casual sources include cooperative neighbors, friends and relatives of fugitives, state and local law enforcement agencies and sources of information such as banks and utilities. The receipt of this information was and is premised on the FBI's ability to protect these sources from disclosure. (U)

There are two problems presented by oral testimony. The first involves oral testimony based on documents from FBI files. Chief Judge Bryant has refused to issue a trial protective order but has said he will instruct the defense that the witness must testify in line with the document as presented into evidence. By this, he is limiting testimony and precluding a witness from putting into evidence information which has been removed from a particular document. Hopefully, this will prevent information we sought to protect from being disclosed. The success, of course, rests on the ability and willingness of the witness to avoid inadvertent disclosure during the course of testimony in the heat of the trial. (U)

The second problem involves the witness who will be testifying without benefit of a document or on aspects of a situation not included in the edited document. This presents a different problem since the witness does not have a document to proscribe his testimony and must rely on some instruction either from the court, the defense or the Department of Justice. Even with such instruction, the witness must be able to determine whether the information he is disclosing originated from a sensitive source such as a foreign government. In many instances,

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United States v. W. Mark Felt, et al.

(U) witnesses possess information they learned eight to ten or more years ago. They are not going to be able to recall where, how, or when they learned it. Generally, it is the origin of information which creates the need to protect it, be it a foreign government or a sensitive informant. (S)

(S) To date, the only effective constraint on disclosure in this area are the three court-approved motions in limine. These motions govern a very small area of concern and do not prevent disclosure of information of serious concern to the Bureau. It is difficult to make a prediction or even a guess at what may or may not be disclosed during the course of this trial by witnesses. With the defense attempting to show foreign direction of the Weatherman, there is a substantial risk that sensitive information will be disclosed. This information often originates with a foreign government. a live source [redacted] b1

(S) [redacted] b1
[redacted] An attempt is being made to create a summary of the information in such a fashion as to give the defense the information it needs to defend their clients and, at the same time, protect the national security concerns. As of now, a summary acceptable to the defense and the Government has not been drafted. (S)

Finally, we are concerned about our ability to correctly analyze and assess damage from documents which, in most cases, are at least seven years old.

- 3 -

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DATE 05-04-2009 BY 65179 HHL/baw/sbs

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TO DIRECTOR IMMEDIATE

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UNCLAS E F T O

ATTENTION JOSEPH L. TIERNEY, ROOM 4859, JEH

UNITED STATES VS. L. PATRICK GRAY, ET AL, U.S. DISTRICT COURT,
DISTRICT OF COLUMBIA; CR

ON JULY 22, 1980, SA [] WAS CONTACTED BY
HIS ATTORNEY, [], AND ADVISED THAT THE DEPARTMENT
OF JUSTICE HAD REQUESTED SA [] PRESENCE IN WASHINGTON,
D.C. FOR PRETRIAL CONFERENCE ON THE FOLLOWING ALTERNATE DATES:
JULY 24, 29 OR 31, 1980. JULY 24, 1980 WAS IMMEDIATELY RULED
OUT AS BEING A PHYSICALLY IMPOSSIBLE DEADLINE TO MEET. REGARDING
THE 29TH AND 31ST, SA [] IS MORE THAN WILLING TO COOPERATE
IN THIS MATTER; HOWEVER, ON THOSE PARTICULAR DATES, IT WOULD BE
EXTREMELY INCONVENIENT AND POSE A SEVERE HARDSHIP AS HE HAS
PREVIOUSLY BEEN APPROVED ANNUAL LEAVE FOR THE DATES OF JULY 29 OCT 3 1980

b6
b7C

Contents conveyed
60 NOV 06 1980 Frank Martin DOT,
who will advise John Wields
DOT and confer with
attorney. Martin expected to be able
to accommodate [] needs
but doubts if a single pretrial
and trial trip combined
is possible. 24 7/24/80
62-118045-

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Exec. AD-Inv.	_____
Exec. AD-Adm.	_____
Exec. AD-LES	_____
Asst. Dir.:	
Adm. Servs.	_____
Crim. Inv.	_____
Ident.	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Plan. & Insp.	_____
Rec. Mgnt.	23
Tech. Servs.	_____
Training	_____
Public Affs. Off.	_____
Telephone Rm.	_____
Director's Sec'y	_____

PAGE TWO DE HN 67-3277 UNCLAS E F T O

THROUGH AND INCLUDING AUGUST 6, 1980; AS HE MUST MOVE FROM HIS PRESENT RESIDENCE TO A NEW RESIDENCE ON JULY 31 AND AUGUST 1, 1980 AND WILL BE PHYSICALLY HANDLING THE ENTIRE MOVE, INVOLVING THE PACKING AND UNPACKING OF HOUSEHOLD EFFECTS.

ON JULY 23, 1980, SA [REDACTED] ADVISED HIS ATTORNEY OF THE ABOVE, WHO IN TURN WILL CONTACT THE DEPARTMENT OF JUSTICE. b6 b7C

REQUEST OF THE BUREAU:

BUREAU IS REQUESTED TO CONTACT THE DEPARTMENT OF JUSTICE AND ADVISE THEM THAT SA [REDACTED] REQUESTS PRETRIAL CONFERENCE BE HELD CLOSER TO THE DATE OF ACTUAL TRIAL. FLIGHT FROM HONOLULU TO WDC IS ELEVEN HOURS IN DURATION, SIX HOUR TIME DIFFERENCE AND COSTS APPROXIMATELY \$800.00. IT WOULD APPEAR MOST REASONABLE AND MOST ECONOMICAL TO GRANT SA [REDACTED] REQUEST. b6 b7C

BT

005

Crim Div Div

Greenberg/Gray-7296

UNITED STATES GOVERNMENT

Memorandum

TO : Joe Herney

DATE: August 10, 1980

FROM : John W. Nields, Jr.

SUBJECT: U.S. v. Felt et al

C Please provide me with a copy of a document from Tolson's files dated Jan. 6, 1967 stating that A.G. authorization should always be obtained in writing.

Joe, Please initial + date the copy
you send over here. Thanks

4/6-

Greenberg/Gray-7297

60 SEP 23 1980

Handled 8/14/80 2:55
62-118045-284

SEP 12 1980

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DEPARTMENT OF JUSTICE
 FEDERAL BUREAU OF INVESTIGATION
 COMMUNICATION MESSAGE FORM

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 WHERE SHOWN OTHERWISE

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PAGE 1 of 4

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FM FM DIRECTOR FBI

TO ALL LEGAL ATTACHES ROUTINE

BT

14 ~~SECRET~~

U. S. VS W. MARK FELT, ET AL.; FOREIGN SOURCE INFORMATION. {U}

12 THE TRIAL OF FORMER ACTING ASSOCIATE DIRECTOR W. MARK FELT

AND FORMER ASSISTANT TO THE DIRECTOR EDWARD S. MILLER BEGAN

10 MONDAY, SEPTEMBER 15, 1980. PROSECUTION CASE IS EXPECTED TO

CONSUME TWO WEEKS OR MORE AND DEFENSE FOUR WEEKS OR MORE. THE

8 SAME CHARGES AGAINST FORMER ACTING DIRECTOR L. PATRICK GRAY III

ARE STILL OUTSTANDING AND HE MAY BE TRIED AFTER THIS TRIAL IS

6 COMPLETED. {U}

DOCUMENTS AND ORAL TESTIMONY TO BE USED PRIMARILY BY THE

4 DEFENSE ON THE ISSUE OF FOREIGN INVOLVEMENT IN THE WEATHERMAN

UNDERGROUND ORGANIZATION {WUO} WILL COVER AREAS ON WHICH

2 FRIENDLY FOREIGN SERVICES AND LEGAL ATTACHE SOURCES HAVE FURN-

(U) ISHED INFORMATION. ~~SECRET~~

DO NOT TYPE MESSAGE BELOW THIS LINE

APPROVED BY

DRAFTED BY

DATE

ROOM

TELE EXT.

JLT:JKR {19}

9-15-80

4634/5

4691/232

- 1 - MISS DEVINE
- 1 - MR. R. J. BRUEMMER
- 1 - MR. A. L. STEEL
- 1 - EACH EXECUTIVE ASSISTANT DIRECTOR

- 1 - EACH ASSISTANT DIRECTOR
- 1 - MR. P. DALY
- 1 - MR. J. L. TIERNES

SEP 19 1980

Greenberg/Gray-7298

 FEDERAL BUREAU OF INVESTIGATION
 COMMUNICATIONS CENTER

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FBI/DOJ

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2

CONFIDENTIAL

PAGE TWO DE RUEHFB 0086 ~~SECRET~~

LEGAL ATTACHES MAY ASSURE ANY SOURCE OR FOREIGN SERVICE
20 THAT INFORMATION FURNISHED BY THEM HAS NOT BEEN CLEARED FOR USE
18 AT TRIAL. ALL FOREIGN SOURCE INFORMATION HAS BEEN EXCISED FROM
DOCUMENTS CLEARED FOR TRIAL. THE TRIAL JUDGE HAS ORDERED THAT
16 WITNESS TESTIMONY BE LIMITED IN THE SAME FASHION. STIPULATIONS
HAVE BEEN DRAFTED AND DOCUMENTS ALTERED TO REPLACE FOREIGN
14 SOURCE INFORMATION WITH INFORMATION OBTAINED FROM PUBLIC SOURCE
MATERIAL OR FROM DOMESTIC SOURCES. OFTEN THE SUBSTITUTE INFOR-
12 MATION HAS BEEN MORE DETAILED AND SPECIFIC THAN THE FOREIGN
SOURCE INFORMATION IT IS REPLACING. WHEN IT IS LESS SPECIFIC,
10 THE LESSER DETAIL HAS BEEN USED. IN SEVERAL INSTANCES, INFOR-
MATION IS BEING LABELED AS FROM AN INFORMANT OR A WIRETAP IN
8 THE UNITED STATES TO PRECLUDE QUESTION WHEN IT APPEARS TO
ORIGINATE IN A FOREIGN COUNTRY. YOU MAY ASSURE YOUR SOURCES
6 THEY CAN ASSERT IN RESPONSE TO ANY INQUIRY THAT THEY ARE NOT
THE SOURCE OF ANY INFORMATION MADE PUBLIC DURING THIS TRIAL AND
(U) 4 THAT THEY HAVE BEEN SO ASSURED BY THE FBI. ~~SECRET~~

(S)

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Greenberg/Gray-7299

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FBI/DOJ

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Greenberg/Gray-7300

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CONFIDENTIAL

(C)

PAGE FOUR DE RUEHFB 0086 ~~SECRET~~

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14

LEGAL ATTACHES SHOULD ALERT OTHER EMBASSY OFFICIALS TO
THIS MATTER, ASSURING THEM THAT RELEASE OF ANY FEDERAL THIRD
AGENCY INFORMATION FOR THIS TRIAL HAS BEEN CLEARED BY THE
DEPARTMENT OF JUSTICE WITH THE APPROPRIATE HEADQUARTERS,
NOTABLY STATE AND CIA. {U}

~~C AND E 0060, REASONS 1 AND 2, DRD SEPTEMBER 15, 2010.~~

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Greenberg/Gray-7301

~~SECRET~~

FBI/DOJ

JAMES G. MARTIN
9TH DISTRICT, NORTH CAROLINA

COUNTIES:
IREDELL
LINCOLN
MECKLENBURG

Congress of the United States
House of Representatives
Washington, D.C. 20515

COMMITTEE:
WAYS AND MEANS

WASHINGTON OFFICE:
341 CANNON HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515
TELEPHONE: (202) 225-1976

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DATE 05-04-2009 BY 65179 dmh/baw/sbs

September 4, 1980

~~FEDERAL GOVERNMENT~~

Mr. Emil Moschella
Special Agent-in-Charge
Federal Bureau of Investigation
Office of Congressional Affairs
10th and Pennsylvania Avenue, N.W.
Washington, D.C. 20535

Dear Mr. Moschella:

A constituent of mine has corresponded with me concerning the trial of W. Mark Felt and Edward S. Miller. The trial concerning these two gentlemen has been met with several delays since it was to first begin on January 22, 1979. Because of the numerous delays the legal costs to these agents have greatly increased. I would like to inquire as to what is the Department's policy of assisting its agents with their legal fees when the reason for the trial was a job related matter.

Your attention to this matter is greatly appreciated.

Sincerely,

Jim Martin
James G. Martin
Member of Congress

(2)

62-118045-286

2 SEP 22 1980

164-118045-286
SEP 20 1980

Greenberg/Gray-7302

62-118045-286
SEP 22 1980
SEP 22 1980

9-22-80
217

le 28—Judicial Administration

ion, together with all process-
dings served upon him, to his
te supervisor or whomever is
ed by the head of his depart-
agency, forthwith. The em-
employing federal agency
bmit to the Civil Division in a
nanner a statement, with all
ing data, as to whether the em-
was acting within the scope of
loyment, together with its rec-
lation as to whether represen-
should be provided. The com-
mion between the employee and
ividual acting as an attorney at
loying agency, with regard to
quest for representation, shall
ed as subject to the attorney-
privilege. In emergency situa-
e Civil Division may initiate
nal representation after com-
tion by telephone with the em-
agency. In such cases, appro-
written data must be subse-
provided.

pon receipt of the agency's no-
on of request for counsel, the
ivision will determine whether
mployee's actions reasonably
to have been performed within
ope of his employment, and
r providing representation is in
erest of the United States. If a
e determination is made, Civil
n will inform the agency and/or
mployee that no representation
provided.

Where there appears to exist the
lity of a federal criminal inves-
n or indictment relating to the
subject matter for which repre-
sion is sought, the Civil Division
ntact a designated official in the
al Division for a determination
er the employee is either a
of a federal criminal investiga-
a defendant in a federal crime.
An employee is the target of
estigation if, in addition to being
stantially implicated by having
appropriate responsibilities at the
priate time, there is some evi-
of his specific participation in a
In appropriate instances, Civil
s and Tax Divisions and any
prosecutive authority within the
ment should be contacted for a
r determination.

Chapter I—Department of Justice

§ 50.16

(4) If the Criminal, Civil Rights or Tax Division or other prosecutive authority within the Department (hereinafter "prosecuting division") indicates that the employee is not the target of a criminal investigation concerning the act or acts for which he seeks representation, then representation may be provided. Similarly, if the prosecuting division indicates that there is an ongoing investigation, but into a matter other than that for which representation has been requested, then representation may be provided.

(5) If the prosecuting division indicates that the employee is the target of a criminal investigation concerning the act or acts for which he seeks representation, Civil Division will inform the employee that no representation by Justice Department attorneys will be provided. If the prosecuting division indicates that the employee is a target of an investigation concerning the act or acts for which he seeks representation, but no decision to seek an indictment or issue an information has been made, a private attorney may be provided to the employee at federal expense under the procedures of § 50.16.

(6) If conflicts exist between the legal or factual positions of various employees in the same case which make it inappropriate for a single attorney to represent them all, the employees may be separated into as many groups as is necessary to resolve the conflict problem and each group may be provided with separate representation. Some situations may make it advisable that private representation be provided to all conflicting groups and that Justice Department attorneys be withheld so as not to prejudice particular defendants. In such situations, the procedures of § 50.16 will apply.

(7) Once undertaken, representation under this subsection will continue until either all appropriate proceedings, including applicable appellate procedures, have ended, or until any of the foregoing bases for declining or withdrawing from representation is found to exist, including without limitation the basis that representation is not in the interest of the United States. In any of the latter events, the

representing Department attorney on the case will seek to withdraw but will ensure to the maximum extent possible that the employee is not prejudiced thereby.

(8) Justice Department attorneys who represent employees under this section undertake a full and traditional attorney-client relationship with the employees with respect to the attorney-client privilege. If representation is discontinued for any reason, any incriminating information gained by the attorney in the course of representing the employee continues to be subject to the attorney-client privilege. All legal arguments appropriate to the employee's case will be made unless they conflict with governmental positions. Where adequate representation requires the making of a legal argument which conflicts with a governmental position, the Department attorney shall so advise the employee.

(b) Representation by Department of Justice attorneys is not available to a federal employee whenever:

(1) The representation requested is in connection with a federal criminal proceeding in which the employee is a defendant;

(2) The employee is a target of a federal criminal investigation on the same subject matter;

(3) The act or acts with regard to which the employee desires representation do not reasonably appear to have been performed within the scope of his employment with the federal government; or

(4) It is otherwise determined by the Department that it is not in the interest of the United States to represent the employee.

(28 U.S.C. 509 and 510)

[Order No. 683-77, 42 FR 5695, Jan. 31, 1977]

§ 50.16 Representation of Federal employees by private counsel at Federal expense.

(a) Representation by private counsel at federal expense may be provided to a federal employee only in the instances described in § 50.15 (a)(5) and (a)(6).

62-118045-286

ENCLOSURE

§ 50.15

Office of Federal Contract Compliance Programs

41 CFR Part 60-3
Department of Justice

28 CFR 50.14
Civil Service Commission
5 CFR 300.103(c)

Normally when citing these guidelines, the section number immediately preceding the title of the guidelines will be from these guidelines series 1-18. If a section number from the codification for an individual agency is needed it can also be added at the end of the agency citation. For example, section 6A of these guidelines could be cited for EEOC as follows: "Section 6A, Uniform Guidelines on Employee Selection Procedures (1978); 43 FR —, (August 25, 1978); 29 CFR Part 1607, section 6A."

ELEANOR HOLMES NORTON,
Chair, Equal Employment Opportunity Commission.

ALAN K. CAMPBELL,
Chairman, Civil Service Commission.

RAY MARSHALL,
Secretary of Labor.

GRIFFIN B. BELL,
Attorney General.

(28 U.S.C. 509; 5 U.S.C. 301)

[Order No. 668-76, 41 FR 51735, Nov. 23, 1976, as amended at 43 FR 38295, Aug. 25, 1978]

§ 50.15 Representation of Federal employees by Department of Justice Attorneys or by private counsel furnished by the Department in state criminal proceedings and in civil proceedings and Congressional proceedings in which Federal employees are sued or subpoenaed in their individual capacities:

(a) Under the procedures set forth below, a federal employee (herein defined to include former employees) may be represented by Justice Department attorneys in state criminal proceedings and in civil and Congressional proceedings in which he is sued or subpoenaed in his individual capacities, not covered by § 15.1 of this chapter.

(1) When an employee believes he is entitled to representation by the Department of Justice in a proceeding, he must submit a request for that representation, together with all process and pleadings served upon him, to his immediate supervisor or whomever is designated by the head of his department or agency, forthwith. The employee's employing federal agency shall submit to the Civil Division in a timely manner a statement, with all supporting data, as to whether the employee was acting within the scope of his employment, together with its recommendation as to whether representation should be provided. The communication between the employee and any individual acting as an attorney at his employing agency, with regard to the request for representation, shall be treated as subject to the attorney-client privilege. In emergency situations the Civil Division may initiate conditional representation after communication by telephone with the employing agency. In such cases, appropriate written data must be subsequently provided.

Title 28—Judicial Administration

(2) Upon receipt of the agency's notification of request for counsel, the Civil Division will determine whether the employee's actions reasonably appear to have been performed within the scope of his employment, and whether providing representation is in the interest of the United States. If a negative determination is made, Civil Division will inform the agency and/or the employee that no representation will be provided.

(3) Where there appears to exist the possibility of a federal criminal investigation or indictment relating to the same subject matter for which representation is sought, the Civil Division will contact a designated official in the Criminal Division for a determination whether the employee is either a target of a federal criminal investigation or a defendant in a federal criminal case. An employee is the target of an investigation if, in addition to being circumstantially implicated by having the appropriate responsibilities at the appropriate time, there is some evidence of his specific participation in a crime. In appropriate instances, Civil Rights and Tax Divisions and any other prosecutive authority within the Department should be contacted for a similar determination.

Chapter I—Department of Justice

(4) If the Criminal, Civil, Tax Division or other prosecutive authority within the Department indicates that the employee is a target of a criminal investigation concerning the act or acts for which representation is sought, then representation may be provided. Similar prosecutive division indicates there is an ongoing investigation into a matter other than which representation has been requested, then representation is provided.

(5) If the prosecutive division indicates that the employee is a target of a criminal investigation of the act or acts for which he seeks representation, Civil Division will indicate to the employee that no representation by Justice Department attorneys will be provided. If the prosecutive division indicates that the employee is a target of an investigation of the act or acts for which he seeks representation, but no decision has been made, a private attorney may be provided to the employee at his expense under the procedures of § 50.16.

(6) If conflicts exist between legal or factual positions of employees in the same case, it may be inappropriate for an attorney to represent them all. Employees may be separated into groups as is necessary to resolve conflict problem and each group will be provided with separate representation. Some situations may be such that private representation is provided to all conflicting groups that Justice Department attorneys are withheld so as not to prejudice individual defendants. In such cases, the procedures of § 50.16 will apply.

(7) Once undertaken, representation under this subsection will continue until either all appropriate proceedings, including applicable procedures, have ended, or the bases for the foregoing bases for withdrawing from representation are found to exist, including withdrawal on the basis that representation is not in the interest of the United States. In any of the latter cases, the employee will be informed of the basis for withdrawal.

1 - Mr. Young
(Attn: Mr. Moschella)
1 - Civ. Lit. Unit II

September 12, 1980

Honorable James G. Martin
House of Representatives
Washington, D.C. 20515

~~FEDERAL GOVERNMENT~~

Dear Congressman Martin:

Reference is made to your letter of September 4, 1980, to Special Agent Emil Moschella of our Office of Congressional and Public Affairs, concerning a constituent's inquiry about the trial of former Bureau officials W. Mark Felt and Edward S. Miller. You noted the trial had been ~~delayed~~ on several occasions and inquired as to the Department of Justice (DOJ) policy with regard to payment of legal fees.

Departmental policy with reference to representation of Federal employees is contained in 28 Code of Federal Regulations, Section 50.15, two copies of which are enclosed for your convenience.

In the event you have further questions concerning this matter, you may wish to correspond with the Assistant Attorney General, Civil Division, DOJ.

Sincerely yours,

William H. Webster

William H. Webster
Director

62-118045-287

Enclosures (2)

1 Assistant Attorney General
Civil Division

NOTE: Congressman Martin refers to constituent's inquiry concerning the W. Mark Felt and Edward S. Miller trial and notes legal costs to defendants have increased due to trial delays. He is being furnished with copies of the appropriate Code of Federal Regulations provisions, and being referred to the DOJ for further inquiries.

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B/P:jab
(6)

APPROVED:

Director *[Signature]*

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MAIL ROOM ☐

Greenberg/Gray-7305

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SEP 22 1980

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8/27/80

Mr. Colwell:

Re: U. S. v. Felt, et al.

Judge Bryant set trial for Monday, 9/15/80. The prosecution estimated its case would take one week without any time allotted for examination, two weeks with defense cross-examination taken in and perhaps more than two weeks if security problems arise as a result of the cross-examination. The defense case is expected to take four weeks. The earliest date the defense case may be predicted to begin is therefore Monday, 9/29/80. Judge Bryant indicated the trial will run four days each week if the jury is not sequestered and five days each week if the jury is sequestered. Defense counsel indicated to the court they did not desire the jury to be sequestered and the prosecution postponed taking a position on the issue.

Defense counsel had requested the trial to begin 9/22 or 9/29/80. The prosecutor's office understands Judge Bryant has scheduled himself to begin an ABSCAM trial on 10/21/80.

Judge Bryant has yet to sign the Trial Protective Order although he has indicated he will, perhaps with some alterations.

R. P. Finzel

- 1 - Mr. Colwell
- 1 - Mr. Mullen
- 1 - Mr. Revell
- 1 - Mr. O'Malley
- 1 - Mr. Mintz
- 1 - Mr. Otto
- 1 - Mr. Steel
- 1 - Mr. Tierney
- 1 - Mr. Finzel

JLT:mjl (10)

60 OCT 23 1980

Greenberg/Gray-7308

62-118045

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FBI/DOJ

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ALL INFORMATION CONTAINED
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DATE 05-04-2009 BY 65179 dmh/baw/sps

Greenberg/Gray-7309

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RETURN. DATE

All information contained herein is unclassified

Date 05-04-2009 by 65179 dmh/baw/sbs

Minolta SR1 # 213.2665

35 mm / 1.4 lens # 111 4273

NAME

JOHN W. NIELDS, JR.

DIVISION

DOT

ROOM

EXT. 633-5218

SIGNATURE

John W. Nields Jr.

UNITED STATES GOVERNMENT

MemorandumUNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

TO : Mr. Greenleaf

DATE: 7/31/80

FROM : W.L. Bailey

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-04-2009 BY 65179 dmh/baw/sbsSUBJECT: U.S. VS. W. MARK FELT, ET AL.
TRIAL PREPARATION

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 Director's Sec'y _____

PURPOSE:*MARK W. Felt*

To document request for document camera.

DETAILS:

Francis J. Martin, Esq., Department of Justice, has advised he needs a document camera in an attache case similar to what would have been in use in the New York Office in 1972-73. The camera will be used during the trial of captioned prosecution.

Mr. Martin will execute whatever property receipt is customary. *attached*

Trial is now scheduled to commence Monday, 8/19/80. The duration of trial is uncertain but has been estimated at six weeks.

Delivery to Mr. Martin will be arranged by SA Joseph L. Tierney (X-4763).

RECOMMENDATION:

That camera be made available, as requested.

APPROVED: _____
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JLT:tdp (3) *3449*
 1 - Mr. Mones (Rm. *1883*, TL #241)
 1 - Mr. Tierney

53 NOV 6 1980

FBI/DOJ

Memorandum

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-04-2009 BY 65179 dmh/baw/sbs



FEDERAL GOVERNMENT

Subject

United States v. Felt, et al

Date

August 12, 1980
CBR:ams

MARK W. Felt

To

Director
Federal Bureau of Investigation

From

The Attorney General

CBR 8.12.80

All present or former employees of the Department of Justice who are potential witnesses in the case of United States v. Felt, et al are released pursuant to 28 C.F.R. §16.21 from their employment agreements, so that they may discuss with cleared trial counsel for any defendant in the above case any information, whether or not classified, which in their judgment or that of trial counsel is relevant to the issues in the trial, except for information which to their knowledge was received from a foreign government intelligence service, and except for the names of live sources. If they believe any such foreign government information is relevant to the issues in the case, they should immediately contact S.A. Joseph L. Tierney, and identify the document in which the information is contained. He will be under instructions immediately to bring the document to the Court for its review. Any notes taken by defense counsel of classified matters as a result of such interviews should be stored in accordance with the Protective Order issued on November 5, 1979 in this case.

62-118045-291

OCT 3 1980

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Let to AG

8-13-80

PRD:jam

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Greenberg/Gray-7312

The Attorney General

August 12, 1980

Director, FBI

U. S. v. F.B.I. et al.

FEDERAL GOVERNMENT

MARK W. FELT

Reference is made to your memorandum to me dated August 12, 1980, which released current and former Department of Justice employees from the provisions of 38 C. F. R. 16.21 enabling them to disclose to cleared defense counsel in this matter all relevant information in their possession excepting information which originates from a foreign government or the identity of a live source.

For purposes of this case, I am similarly releasing current and former employees of the FBI from employment agreements to disclose the aforesaid information to cleared defense counsel.

Should any current or former FBI employee have any questions regarding this release, they should contact the Legal Counsel Division, telephone [redacted]. I am furnishing a copy of this communication to Special Counsel John W. Nichols, Jr. for furnishing to the defense counsel so that it might be displayed to potential witnesses in this matter.

b6
b7c

1 - John W. Nichols, Jr.
Special Counsel

1 - Mr. Colwell
1 - Mr. Mullen
1 - Mr. Mintz
1 - Mr. Steel
1 - Mr. Finzel
1 - Mr. Tierney

Original by hand
to AG's office 8/18/80
Copy by hand
to Mr. Nichols 8/18/80

62-118045-292

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FVD:jam
(11)

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MAIL ROOM ☐

OCT 8 1980

APPROVED:

Director WHW
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Exec. AD-Adm. SP
Exec. AD-LES _____

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*N.B. THE CITATION USED BY THE A.G. SHOULD HAVE BEEN 28CFR 16.22 INSTEAD OF 16.21. HOWEVER, HIS INTENTION IS CLEAR AND THERE IS NO IMPEDIMENT TO THE DIRECTOR'S ACTION HERE.

FBI/DOJ

~~SECRET~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

7/24/80
Greenberg/Gray-7314

Mr. Colwell:

Re: U.S. vs. Felt, et al.

MARK W. FELT

(S) Judge Bryant on this date issued a discovery order directing that three documents be placed in the security vault at DOJ subject to the Court's supplemental protective order which precluded disclosure to anybody outside the defense, including witnesses, absent further court approval. Two of the documents contain information of foreign origin. One of these documents contained information originating with the [redacted] This document was a subject of a prior successful Claim of Privilege, however, the substance of the information contained in a separate document was disclosed to the defense. The court has now rescinded the original Claim of Privilege and ordered the disclosure. We may, however, protect the identity of the [redacted] as the originators. b1

(S) The second document pertains to information we received from a Mexican source. Again, in disclosing this document we can protect the fact that it originated with the Mexican source, however, the substance of the information shows clearly the event took place in Mexico City as does the substance of the information received from the [redacted] As to these two documents, we should continue to advise the Department we object to disclosure of foreign government information and reemphasize the commitment we have made to these governments to protect their information and that that commitment should be honored by the U. S. Government. We have contacted these governments previously as to their position regarding disclosure of their information in the course of discovery in this case and both governments have asked that we protect their information. As to the [redacted] information, a stipulation has been drafted from nonforeign government sources information covering the information in question. The defense initially accepted the stipulation on July 22, however, have now rescinded that position. b1

(S) [redacted] We have, of course, with Departmental support, protected the identity of any specific target of electronic surveillance in the FCI area. As to this particular tap, a substantial amount of information concerning foreign involvement of the targets of the entries in this case and their associates comes from this surveillance. The defense is very much aware of the fact that we had such electronic coverage and in fact we are, at the request of the Department, working with the defense to create a summary of the information to protect this coverage during the trial. Regarding this document, we should restate our position to the Department that we desire to protect the identity of the target of this electronic coverage. We should, however, realize that the defense and the defendants are already very much aware of this fact. b1

The Department wants the Bureau's position as soon as possible. If approved, SA Paul V. Daly will advise the Department of the Bureau's position as suggested above.

1 - Mr. Colwell
1 - Mr. Mullen
1 - Mr. Steel
PVD:mjl

1 - Mr. O'Malley
1 - Mr. Bailey
1 - Mr. Daly

~~SECRET~~

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62-118045

OCT 3 1980

Nields
advised 7/24/80
Daly

WLB
ESJ/N
AK
WOW

Privacy Act Protected Information

SEP 3 1980

Honorable William B. Bryant
Chief Judge
U.S. District Court for the
District of Columbia
United States Courthouse
3rd & Constitution Avenue, N.W.
Washington, D.C. 20001

MARK W. Felt

Dear Chief Judge Bryant:

Re: United States v. Felt/Miller
Criminal No. 78-000179

Pursuant to a verbal request from the Defence Counsel for Mr. Felt in the above-captioned criminal case, I have been asked to grant access to Top Secret National Security Information for Messrs. [redacted] attorneys for

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[redacted] The adjudication of this clearance is made pursuant to the provisions of Executive Order 12065, "National Security Information," dated June 28, 1978 the Information Security Oversight Office Implementing Directive No. 1, dated December 1, 1978, and the Protective Order filed in this case dated December 20, 1978 (Part One, (4)).

Attached for your convenience is a brief synopsis of information on both of the aforementioned attorneys.

In making such an adjudication, I am responsible, as the Department Security Officer, for making a determination of trustworthiness and for ensuring that a valid need-to-know exists and that such access to classified National Security Information "is essential to the accomplishment of official Government duties or contractual obligations" (E.O. 12065 §4-101). Naturally my decision must be based on information developed in the requisite Federal Bureau of Investigation (FBI) full-field background investigation, the need-to-know determination, and input from the proponent organization.

Please be advised that Counsel for defendant Felt had indicated a desire to interview [redacted]

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[redacted] in February, 1980. At that time it was requested that

Copies furnished:

Records

D. Rubino - SPS

[redacted] - SPS

[redacted] - FBI/ISO

F. MARTIN - FBI/TASK FORCE

60 OCT 23 1980

DJR: [redacted] 4511;bjr:9-3-80

NOT RECORDED
25 OCT 8 1980

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Greenberg/Gray-7315

I grant Messrs. [] a Top Secret National Security Clearance with Special Access to Sensitive Compartmented Information. After detailed discussions with the proponent organization, the National Security Agency, and with the defense counsel for Mr. Felt it was determined that access to classified National Security Information at the Secret level would be sufficient. The adjudication to grant access to Secret National Security Information to Messrs. []

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[] was made pursuant to the aforementioned directives, a review of their FBI full-field background investigations, a valid need-to-know determination and input from the proponent organization. Although I was not entirely comfortable with the decision to grant access, at that time, I decided in favor of the defense.

Inasmuch as it is somewhat uncommon for the Federal Government to grant access to classified National Security Information to the attorneys of a potential witness, Messrs. []

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[] were granted such access to Secret level material with the following limitations:

The Secret clearance granted did not include or encompass access to National Security Information which would disclose:

- o FBI confidential sources, targets of technical surveillance or other sophisticated techniques or methods used by the FBI (Weatherman investigation related information excluded), as specified within the January 2, 1979 memorandum from then Deputy Attorney General Civiletti to the Director, FBI, subject "Potential Witnesses in United States v. Gray et al."
- o Information revealing National Security Agency activities.

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b7C

Such clearances were further conditioned upon the acquisition of signed acknowledgements by Messrs. [] stating that they had read and were familiar with the Information Security Oversight Office's regulation concerning the safeguarding of classified information and material (the same acknowledgement signed by all Department personnel given access to classified National Security Information.)

In spite of all of the effort expended to clear these gentlemen, the defense counsel never conducted the proposed interview, therefore the requested clearances were never granted.

With regard to the current request for access to Top Secret National Security Information and specific access to a classified and highly sensitive current FBI intelligence collection program, please be advised that I have again reviewed the cases of Messrs. [REDACTED] Based on consideration of the need-to-know and on the review of their respective FBI full-field background investigations, which describe [REDACTED]

[REDACTED] as outlined in the attachment to this letter and [REDACTED]

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[REDACTED] the state of the record precludes the Federal Government from granting access to Top Secret National Security Information to these men. My decision is based on the fact that we must protect the sources and methods currently being utilized by the FBI, some of which are being employed in current criminal investigations. Further, I can find no justification for giving attorneys for a potential witness access to such a current intelligence operation. The attending risk of turning over such sensitive material to persons over which we can exercise little or no control is inconsistent with out responsibility to protect such material.

Accordingly, pursuant to my responsibilities as outlined in 28 CFR §17.80 I have decided not to grant the requested clearances.

Should you have any questions or wish to discuss this matter further, please feel free to contact me on [REDACTED]

Sincerely,

D. Jerry Rubino
Department Security Officer

Enclosures

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FM SAVANNAH (66-1491)

TO DIRECTOR PRIORITY

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OF INVESTIGATION
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SURREPTITIOUS ENTRY INVESTIGATIONS SPECIAL, 1976.

ON AUGUST 4, 1988, FRANK MARTIN, DEPARTMENT OF JUSTICE (DOJ),
TELEPHONICALLY CONTACTED SA [REDACTED] AT AUGUSTA, GA. RA.
MARTIN REQUESTED SA [REDACTED] REPORT TO DOJ ROOM 2304 AT 3:00 PM ON
AUGUST 6, 1988, TO REVIEW DOCUMENTS UNCOVERED DURING CAPTIONED
INVESTIGATION. MARTIN ELABORATED THAT SUPERVISOR JOSEPH TIERNEY, OF
FBIHQ, WAS FAMILIAR WITH THIS MATTER.

UACB AGENT WILL REPORT AS DIRECTED.

BT

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-04-2009 BY 65179 dmh/baw/sbs

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8/7/80

INTERNAL GOVERNMENT

OTHER Pursuant to Sealed Court Order

Mr. Colwell:

3

W. MARK FELT

Attached are ~~two~~ documents prepared by the Department of Justice. The first is an [redacted]

[redacted] The second document is a letter prepared by Special Counsel John W. Nields to the Attorney General. This particular letter shows it originated with Nields and ASAC Daly. Generally, it states what information is being protected in this case through redactions, stipulations and admissions. It generally outlines what information will be disclosed during trial. It points out that a vast body of classified material is in the hands of the defense for trial use and asks that the Attorney General pursuant to his authority in 28CFR 17.64 authorize disclosure of classified information in trial. This is necessary since we have not in this case declassified material to be used in trial but rather have furnished it to the Department in a classified form. Declassification can only be achieved through the authority of the Attorney General. Declassification in this instance being sought from the Attorney General will only apply to that portion of documents actually entered into evidence in this case. All other information will retain its classification. For example, some of the documents exceed 50 and 60 pages and the defense may use only a couple of sentences in its case. In that example all the remaining portion of that document will retain its declassification. The ultimate thrust of the memorandum to the Attorney General is to also release witnesses to testify in court during the trial releasing classified information. The intent is that the oral testimony will be tailored through the Claim of Privilege to protect the same information and concerns that we have protected in processing the documents for trial. In effect, the Government is seeking a trial protective order.

As to the letter, it would be appropriate if the letter is from Nields to the Attorney General and it should not show ASAC Daly as a participant. We have furnished our position regarding possible damage occurring in this trial to the Attorney General and Nields has a copy of that. That communication presents our concerns to the Department. Nields has obviously taken those concerns into consideration in preparation of this memorandum and it should show clearly that he is the author.

OTHER Pursuant to Sealed Court Order

The [redacted] to be used in support of the Attorney General's Claim of Privilege should be executed.

Encs. (2)

3- ENCLOSURE

- 1 - Mr. Colwell
- 1 - Mr. Mullen
- 1 - Mr. Mintz
- 1 - Mr. Revell
- 1 - Mr. O'Malley
- 1 - Mr. Steel
- 1 - Mr. Daly

PVD:mjl (8)

Downgraded to ~~Secret~~
ucbaw 60324 3-9-2009

UNCLASSIFIED

~~TOP SECRET~~

MATERIAL ATTACHED

JAN 18 1981

OTHER Pursuant to Sealed Court Order

* The third document is the AFFIDAVIT
with SIGN.

Memorandum



ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-04-2009 BY 65179 dmh/baw/sbs

Subject

United States v. Felt, et al

Date

August 7, 1980
JWN:ams

To Benjamin R. Civiletti
Attorney General

From John W. Nields, Jr.
Paul V. Daly

As you are aware, the defendants in the above case have designated for use at trial over 2,000 documents drawn from the files of the FBI or the Department of Justice. The letters and other filings by defense counsel making the designations are attached. The documents themselves are too voluminous to attach. Some of these documents are over fifty pages long. The majority of them contain some classified information; many of them contain several items of classified information. Some of the classified information was obtained from other intelligence agencies - the CIA or the NSA. However, the overwhelming bulk of the material was classified originally within the Department of Justice.

The information relates to the investigation of the Weather Underground organization, which was conducted as a national security investigation, and to past FBI techniques in obtaining foreign intelligence and internal security information. In almost every case the information was classified (1) because it was received from a foreign government intelligence service; (2) because it was received through electronic surveillance of a foreign diplomatic establishment; (3) because it would disclose electronic surveillance of or otherwise identify a foreign counterintelligence target (a spy) or; (4) it was obtained from a live source. Live sources may be broken down into two categories: informants or double agents - persons who supply information on an ongoing basis; and casual sources - neighborhood friends, bank officials, etc.

We have been engaged for the better part of the past year in a process, conducted in part under supervision of the Court and in part through negotiations with defense counsel, of removing from the documents designated for trial the most sensitive items of information, while still leaving available the information needed by the defense for a fair trial. This has been accomplished through redactions in the documents, substitutions on the documents and summaries and stipulations to replace

62-118045-293X2

ENCLOSURE

all or parts of documents.

✓ We believe we have successfully concealed that any information was received by the Federal Bureau of Investigation from any foreign government intelligence services, the existence of any electronic surveillance of a foreign diplomatic establishment and the identity of all but a few targets of foreign counterintelligence investigations and only in those cases in which the FBI concurred. As to informants, we have taken steps to conceal the identity of each informant. There is of course some risk that a few will be identifiable, at least tentatively, from the information in the documents. We believe that the documents as altered do not reveal the identity of any informant whose life would be endangered. Some casual sources will be identifiable, but we believe this will be held to a minimum.

Accordingly, some of the documents as altered and some of the stipulations and summaries and some documents which have not been altered remain properly classified. No way existed in such cases to provide the defense with the information they need in wholly unclassified form. In addition, a vast quantity of information in the Weatherman files received from casual sources has been left in the documents because (a) the administrative task of deleting only the information not needed by the defense would be prohibitive; and (b) we anticipate that only a portion of this information will actually be used at trial - i.e., published to the jury.

The administrative task of declassifying each item of classified information remaining in the documents is unfeasible and undesirable. It is unfeasible because it could not be accomplished without a considerable delay in the trial; and it is undesirable because we wish the classified information to receive protection following the trial if it has not been made public - i.e., communicated to the jury and become part of the public record during the trial.* Thus we recommend formally declassifying the public information only at the end of the trial.

Pursuant to 28 C.F.R. §17.64 the Attorney General, or the Acting Attorney General, has the authority to authorize disclosure of classified information under certain circumstances. We

*We plan to treat as "in evidence" only those parts of the documents which are actually communicated to the jury. Defense counsel have indicated acquiescence in this process.

suggest that you sign the attached memorandum authorizing disclosure at trial through introduction in evidence of the documents described above as altered and summarized, where relevant and necessary to a fair trial of the case, and also authorizing oral testimony about classified information which does not fall within the parameters of the Claim of Privilege referred to in the memorandum. This should have the effect of permitting testimony approximately in congruence with the documents; and it is necessary in order to release defense witnesses who are former FBI officials from their employment agreements and CFR provisions which would otherwise prohibit them from testifying about any classified facts. Finally, the attached memorandum directs Government counsel to seek an order precluding testimony about matters covered by the Claim of Privilege without prior authority from the Court. We think this is necessary in order to prevent unanticipated testimony about particularly sensitive matters.

Greenberg/Gray-7330

UNITED STATES GOVERNMENT

Memorandum

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Exec AD Adm. ☒
Exec AD Inv. ☒
Exec AD LES ☒
Asst. Dir.:
Adm. Servs. ☐
Crim. Inv. ☐
Ident. ☐
Intell. ☐
Laboratory ☐
Legal Coun. ☐
Plan. & Insp. ☐
Rec. Mgnt. ☒
Tech. Servs. ☐
Training ☐
Public Affs. Off. ☐
Telephone Rm. ☐
Director's Sec'y ☐

TO : Mr. Colwell

ALL INFORMATION CONTAINED

DATE: 8/13/80

HEREIN IS UNCLASSIFIED

DATE 05-04-2009 BY 65179 dmh/baw/sbs

FROM : R. P. Finzel

SUBJECT: U. S. v. FELT et al.

W. MARK FELT

During in camera hearing held on 8/12/80, Judge Bryant
heard arguments on [REDACTED]

OTHER In camera

Judge Bryant has put off the trial from 8/18/80 to an
uncertain date, most likely after Labor Day. Judge Bryant indicated he
would rule on the claim of privilege motion Monday, 8/18/80, and will
hold another hearing on 8/22/80, at which time a trial date will possibly
be set.

- 1 - Mr. Colwell
- 1 - Mr. Mullen
- 1 - Mr. Mintz
- 1 - Mr. Steel
- 1 - Mr. Finzel
- 1 - Mr. Tierney

PVD:jam
(8)

59 DEC 9 1980

Greenberg/Gray-7335

FBI/DOJ

SV0002 2522019
PP HQ

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Exec. AD-Adm.	_____
Exec. AD-Inv.	_____
Exec. AD-LES	_____
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Adm. Serv.	_____
Crim. Inv.	_____
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Laboratory	_____
Legal Coun.	_____
Plan. & Insp.	_____
Rec. Mgmt.	_____
Tech. Serv.	_____
Training	_____
Off. of Cong. & Public Aff.	_____
Telephone Rm.	_____
Director's Sec'y	_____

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8 SEP 80 20 21z

FM SAVANNAH (166-1491)

FEDERAL BUREAU
OF INVESTIGATION
COMMUNICATIONS SECTION

TO DIRECTOR PRIORITY

BT

UNCLAS

SURREPTITIOUS ENTRY INVESTIGATION SPECIAL, 1976.

*U.S. vs. W. Mark Felt, et al.
W. Mark Felt / F. S. Gray*

ON SEPTEMBER 8, 1980, FRANK MARTIN, U. S. DEPARTMENT OF JUSTICE, WASHINGTON, D.C., TELEPHONICALLY ADVISED SA [REDACTED] THE AUGUSTA, GA., RA, THAT [REDACTED] WAS TO REPORT TO ROOM 2304 MAIN JUSTICE BUILDING 1:30 P.M., SEPTEMBER 17, 1980. [REDACTED] IS EXPECTED TO GO OVER TESTIMONY WHICH HE WILL GIVE LATER AS A GOVERNMENT WITNESS IN FORTHCOMING TRIAL.

b6
b7C

UACB, [REDACTED] WILL REPORT AS DIRECTED.

b6
b7C

BT

62-118045-294

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-04-2009 BY 65179 dmh/baw/sbs

6 OCT 3 1980

2/4
60 NOV 17 1980

62-118045

Greenberg/Gray-7336

Memorandum



Exec AD Inv. _____
Exec AD Adm. _____
Exec AD LES _____
Asst. Dir.:
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

To : Mr. Mintz *Jam*

Date 9-11-80

From : C. R. McKinnon

Subject : U.S. v. MILLER; FELT; GREY *W. Mark Felt*

PURPOSE:

To request that [redacted] Administrative Services Division (ASD), be released from her employment agreement to testify in captioned matter.

b6
b7C

DETAILS:

On 9-11-80, Special Counsel John Nields, Department of Justice, advised Special Agent [redacted] ASD, that [redacted] would be required to be a witness in the matter of U.S. v. Miller; Felt; Grey. [redacted] at the request of Mr. Nields, has reproduced the Special Agent's Handbook as it existed in September, 1972 with revisions to May, 1973.

[redacted] will testify as to her duties and responsibilities for the maintenance and the administration of all Bureau manuals. Mr. Nields advised that the FBI Special Agent's Handbook will be an item of evidence, and it is necessary for [redacted] to testify that the manuals prepared by her were done in the regular course of her duties and represents the Special Agent's Handbook as it existed in September, 1962. [redacted] will be a necessary witness on Monday, 9-15-80. This matter has been discussed with Legal Counsel Division. It is the opinion of ASD that this testimony is appropriate and would recommend that [redacted] be released from her employment agreement in order to give this testimony.

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b7C

RECOMMENDATION:

That [redacted] be released from her employment agreement to testify concerning her duties and knowledge of the FBI Handbook, FBI Manuals and any related matters.

b6
b7C

DOC:bm (5)

- 1 - Mr. Mintz
- 1 - Mr. Tierney
- 1 - Mr. Coulson
- 1 - Personnel File of [redacted]

APPROVED:

Director _____
Exec. AD-Adm. _____
Exec. AD-Inv. _____
Exec. AD-LES _____

Adm. Serv. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Off. of Cong. & Public Affs. _____

66 NOV 18 1980
149

b6
b7C

NOV 7 1980

OCT 2 1980

COPY RETAINED IN
PERSONNEL RECORDS UNIT

~~SECRET~~

Airtel

- 1 - Mr. Mullen
- 4 - Mr. O'Malley

(1 - (Enc. 3)
(1 - Enc. 3)
(1 -

~~SECRET~~

9/30/80

b6
b7C

- 1 - Mr. Revell
- 13) Mr. PERSONAL ATTENTION

To: SAC, Chicago (100-41353) (Enc. 13)
Denver (Enc. 3)
Miami (100-15214) (Enc. 3)
New York (100-154902) (Enc. 3)
San Francisco (100-54721) (Enc. 3)
St. Louis (Enc. 3)

- 3 - Mr. Finzel
- (1 -
- (1 -
- 1 - Mr. Daly
- 1 - Mr. Tierney (Enc. 3)

From: Director, FBI

✓ ALCHEMY (Ad Hoc Committee for a Marxist-Leninist Society (AHC);
Bufile: 100-442715

(U) U.S. VS. W. MARK FELT, ET AL.
TRIAL DAMAGE - SOURCE PROTECTION (S)

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1,6)
DATE 05-04-2009

ReBuairtel to All SACs 9/19/80, setting forth
general background and the overall source protection situation
anticipated during the predicted six-week trial of second
captioned matter. Instant communication addresses problems
anticipated with regard to sources involved in AHC. AHC is
the single source situation mentioned in referenced airtel
as likely to result in suspicion or identification of an FBI
source based on a review by a knowledgeable person of informa-
(U) tion originating with the source. (S)

Enclosed for each recipient are two packages of
copies of documents, each with an inventory attached, and a
list of sources whose identities now may be in jeopardy. (U)

(U) The first package, numbered 1 through 20, contains
copies of FBI documents prepared between 1967 and 1970 and
containing information from AHC sources. (S)

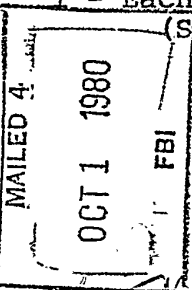
~~SECRET~~

Classified and Extended by 8060
Reason for Extension FCIM II, 1-2.4.2 (2)
Date of Review for Declassification 9/26/2000

ULT:tdp
(45)

- 1 - Each FBIHQ file listed in Enclosure 3
(See page 1a of yellow)

Exec AD Inv. _____
Exec AD Adm. _____
Exec AD LES _____
Asst. Dir.:
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____



4859
74 224

100-442715
4-3267-118045

NOT RECORDED
25 OCT 9 1980

~~SECRET~~

ORIGINAL FILED IN 100-442715

~~SECRET~~

Airtel to SAC, Chicago, et al
RE: ALCHEMY
100-442715

U.S. VS. W. MARK FELT, ET AL.
TRIAL DAMAGE - SOURCE PROTECTION

1 - 65-31868

1 - 100-227629

1 - 100-29233

1 - 100-258511

1 -

1 - 100-369208

b2
b7D

1 -

1 -

1 -

1 - 100-2264

1 - 105-201890

1 - 100-363259

1 - 100-235196

~~SECRET~~

- 1a -

Greenberg/Gray-7339

~~SECRET~~

Airtel to SAC, Chicago, et al
RE: ALCHEMY
100-442715

U.S. VS. W. MARK FELT, ET AL.
TRIAL DAMAGE - SOURCE PROTECTION

The second package, lettered A through P contains copies of stipulations and excised documents as they will be used at captioned trial. These documents contain paraphrased information based on the source reports in the first package. (U)

Both packages may be broken down into the following categories:

1--4 A Bergman's mission for the PRC
B--G Bergman (general, not from AHC)
5--7 Bergman interest in SDS
8--14 H--L SDS and Van Lydegraf contact with PRC
15--17 M--N Bergman and AHC at Algiers conference
18--19 O--P RU knowledge of Weathfugs
(C) 20 [REDACTED] (S)

b1

(U) In those instances in which only part of a stipulation is from AHC, the pertinent material is indicated by underlining the text and a line drawn in the right-hand margin. (S)

(S)

[REDACTED]
[REDACTED] Bergman is likely to be overwhelmed by the wealth of detailed information the FBI had about him, and this may divert and diffuse his attention, at least at the outset. San Francisco should review this material to see if it poses any threat to [REDACTED] an analysis which has not been attempted at FBIHQ [REDACTED]

b1
b2
b7D

(S)

Information being used at trial involves AHC contacts with Students for a Democratic Society/Weatherman Underground Organization (SDS/WUO) and with Leibel Bergman and an AHC source directed against Bergman's organization, the Revolutionary Union (RU). It may be broken down into the following categories:

~~SECRET~~

- 2 -

~~SECRET~~

Airtel to SAC, Chicago, et al
RE: ALCHEMY
100-442715

U.S. VS. W. MARK FELT, ET AL.
TRIAL DAMAGE - SOURCE PROTECTION

1. Leibel Bergman

- a. Mission for the PRC (1967)
- b. Interest in SDS/WUO (1969)
- c. Algiers Conference (1969-70)
- d. Bergman, [] knowledge (1970)

b6
b7C

2. SDS

- a. Contact with PRC (1969)
- b. SDS/WUO Philosophy (1969)
- c. Clayton Van Lydegraf (1969-70)
- d. Algiers Conference - [] (1969)

b6
b7C

(U) 3. Revolutionary Union

- a. Knows location of Dohrn (1970) (S)

(S)

b1
b6
b7C

~~SECRET~~

- 3 -

~~SECRET~~

Airtel to SAC, Chicago, et al
RE: ALCHEMY
100-442715

U.S. VS. W. MARK FELT, ET AL.
TRIAL DAMAGE - SOURCE PROTECTION

(S)

(S)

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b6
b7C
b7D

It is also important to note we cannot predict how much of the sensitive information will be publicized by the media during the trial, or how much of the stipulations and documents will go into the record and be shown to the jury. Only those parts of the stipulations and documents which are actually given to the jury will be made part of the public record. We must prepare, however, for detailed media attention and for all of the attached stipulations and excised documents (in Enclosure 2) going into the record. Assuming the "worst possible case" means we must prepare for Bergman, or perhaps an attorney representing a former WUO subject, such as [] in a future civil action, reviewing the court record after the trial is over. (S)

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(U)

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- 4 -

Greenberg/Gray-7342

~~SECRET~~

Airtel to SAC, Chicago, et al
RE: ALCHEMY
100-442715

U.S. VS. W. MARK FELT, ET AL.
TRIAL DAMAGE - SOURCE PROTECTION

(C)

b1

(S)

b1

~~SECRET~~
- 5 -

Greenberg/Gray-7343

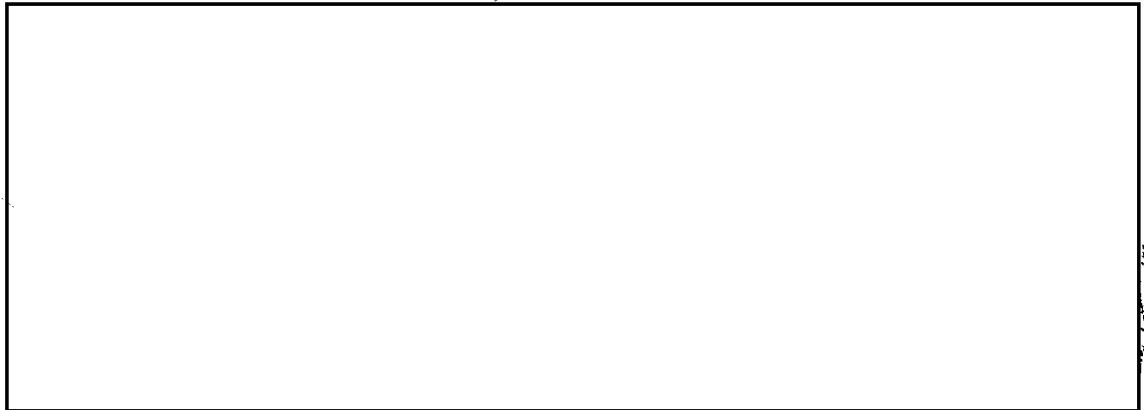
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Airtel to SAC, Chicago, et al
RE: ALCHEMY
100-442715

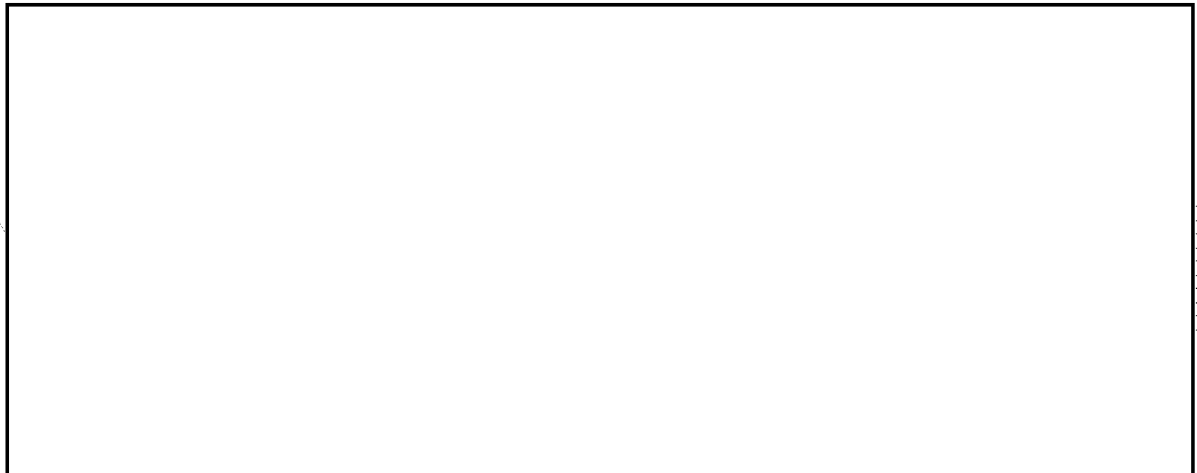
U.S. VS. W. MARK FELT, ET AL.
TRIAL DAMAGE - SOURCE PROTECTION

b1
b2
b7D

(S)



(S)



b1
b2
b6
b7C
b7D

Direct communication between interested field offices is encouraged, as is contact with FBIHQ. Telephone communication should, of course, be discrete. FBIHQ personnel who are familiar with most aspects of this situation are SA [redacted] (Ext. 4591), Joseph L. Tierney (Ext. 4763) and [redacted] (Ext. 4601). (U)

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(U) ALL RECIPIENTS: Following review of this communication, make arrangements to notify sources now located in your territory of the problem NLT Monday, 10/13/80, and offer to confer with the sources to develop defensive cover story. (S)

~~SECRET~~

~~SECRET~~

Airtel to SAC, Chicago, et al
RE: ALCHEMY
100-442715

U.S. VS. W. MARK FELT, ET AL.
TRIAL DAMAGE - SOURCE PROTECTION

CHICAGO:

1. Request the assistance of [redacted] b6
[redacted] b7C
(U) [redacted] in reviewing the jeopardy situation, and actually notifying the sources. (S)
2. Notify FBIHQ and other recipients of any considerations or additional endangered sources not covered by this communication. Notification of new aspects should be in time to be taken into consideration before 10/13/80 deadline of notifying source of basic problem. (S)
3. Although a fugitive-style investigation would be (C) inappropriate, leads to locate [redacted] should be set if he is not in the Chicago area. (S)

NEW YORK:

- (C) 1. Discreetly determine location of [redacted] (former [redacted] and contact SA [redacted] at FBIHQ. (S)

DENVER, MIAMI, SAN FRANCISCO, AND ST. LOUIS:

1. Handle sources in your respective territories. (U)

SAN FRANCISCO:

- (U) 1. Consider possible jeopardy to [redacted] from wide disclosures of RU information. Notify him of expected publicity if believed desirable. (S)

Copies of this communication should be filed in each informant or asset's field office file. Copies of the enclosures should not be unnecessarily reproduced, particularly the list of sources which shows both true name and symbol number. Enclosures should be filed only in the AHC file, which should be treated as an Informant/Asset file in each office because of the concentration of source information there. No enclosures should be filed in any 62, 197 or other (U) litigation file opened in connection with this prosecution. (S)

APPROVED: _____	Adm. Serv. _____	Legal Coun. _____	SECRET
Director _____	Crim. Inv. _____	Plan. & Insp. _____	- 7 -
Exec. AD-Adm. _____	Ident. _____	Rec. Mgnt. _____	
Exec. AD-Inv. _____	Insp. _____	Tech. Serv. _____	
Exec. AD-LES _____	Intell. _____	Training _____	
		Off. Cong. & Public Affs. _____	

Greenberg/Gray-7345

FBI

TRANSMIT VIA:

☐ Teletype
☐ Facsimile
☒ AIRTEL

PRECEDENCE:

☐ Immediate
☐ Priority
☐ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☐ UNCLAS

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 05-05-2009 BY 65179 dmh/baw/sbs

Date 9/11/80

TO: DIRECTOR, FBI
 (ATTN: JOE TIERNEY, RM 4859, TELELIFT 225)

FROM: SAC, NEWARK (62-4106) (RUC)

SUBJECT: Mark No US Vs. W. MARK FELT, et al
 DISCOVERY PROCEEDINGS - TRIAL PREPARATION

RE: Butelcall 9/11/80.

Enclosed for the Bureau are the following items:

- 1.) A certified copy of Birth Certificate.
- 2.) A letter from the Union County Board of Elections re Voter Registration Information for .

b6
 b7C

*Enclosures detached and
 hand delivered to office
 of John W. Fields, Jr., DOV.
 9/15/80*

ENCLOSURE

2- Bureau (Enc. 2)
 1- Newark
 JWM/pab
 (3)

15 SEP 12 1980

62-118045

62-118045-295X

Approved: RJm/pab Transmitted _____ (Number) _____ (Time) Per _____

59 NOV 13 1980

FBI

TRANSMIT VIA:

☐ Teletype
☐ Facsimile
☒ Airtel

PRECEDENCE:

☐ Immediate
☐ Priority
☐ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ E F T O
☐ CLEAR

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 05-05-2009 BY 65179 dmh/baw/sbs

Date 9/15/80

TO : DIRECTOR, FBI
 ATTENTION: CIVIL LITIGATION UNIT II

FROM : SAC, ATLANTA (197-21) (P)

SUBJECT : UNITED STATES v. GRAY, FELT, MILLER

W. MARK Felt

On 9/12/80, SA [redacted] Atlanta Division, was served with a defense subpoena in the above styled case, commanding him to testify in Washington, D. C., on 9/15/80. A follow-up telephone call by SA [redacted] to defense attorney, Mark D. Cummings, indicated that SA [redacted] presence would probably not be required until the end of September, 1980.

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 b7C

UACB, SA [redacted] will testify for the defense in this case.

b6
 b7C

It is requested that the Administrative Services Division, FBIHQ, issue approval for SA [redacted] to travel to Washington, D. C., at Government expense, in order to testify.

b6
 b7C

② Bureau
 2- Atlanta
 1- 197-21
 1- 66-2278

67-118045-296

RTT:ehr
 (4)

SEP 17 1980

60 NOV 09 1980

Approved:

I.D.G./MWT

Transmitted

(Number)

(Time)

Per

GPO : 1977 O - 225-539

Memorandum



Exec AD Inv. _____
Exec AD Adm. _____
Exec AD LES _____
Asst. Dir.:
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

~~CONFIDENTIAL~~

To : Mr. E. J. O'Malley

Date 10/14/80

From : J. E. Nolan, Jr. *JEN*

Subject : U.S. vs. W. MARK FELT, ET AL.

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 05-18-2009

PURPOSE:

To advise that defense counsels for Messrs. Miller and Felt have informed me that they intend to call me as a witness. (U)

ACTION:

None. For information. (U)

DETAILS:

APPROVED

Director

Exec. AD-Adm.

Exec. AD-Inv.

Exec. AD-LES

Adm. Serv. _____

Crim. Inv. _____

Ident. _____

Intell. _____

Laboratory _____

Legal Coun. _____

Plan. & Insp. _____

Rec. Mgnt. _____

Tech. Servs. _____

Training _____

Off. of Cong. & Public Affs. _____

Should testify to in response to subpoena

On 10/13/80, at the request of counsels for the defense, I met with them at Mr. Gettings' office. (U)

They advised that they wished at trial to cover the history of the development of the FCI Guidelines, in particular, why the search provisions of the Guidelines were not included in the first edition of the Guidelines published in 1976, but rather were issued in 1978. (U)

They also inquired whether I was aware of the reactivation of Program C in 1972 and I advised them that former Section Chief W. A. Branigan had so advised me at that time. They inquired as to whether I was aware of the entries in the [] case and I told them that I was. (U) (S)

JEN:mjt (8)

1 - Mr. Mullen

1 - Mr. Mintz

1 - Mr. Finzel

1 - Mr. O'Malley

1 - Mr. J.E. Nolan

1 - Mr. Tierney

1 - Mr. Daly

~~CONFIDENTIAL~~

Classified and Extended by 4091

Reason for Extension FCIM, II, 1-2.4.2 (2 and 3)

Date of Review for Declassification October 14, 2000

OCT 27 1980

CONTINUED-OVER

Greenberg/Gray-7348

~~CONFIDENTIAL~~

Memorandum J. E. Nolan, Jr., to E. J. O'Malley
Re: U.S. vs. W. MARK FELT, ET AL

They also inquired as to whether under FISA the FBI had ever received authority to make an entry into a U.S. person's residence for a Misur installation. I informed them that we had. They asked had the FISA Court ever been requested to approve a physical search not involving electronic surveillance and I told them it had, but that such searches had not involved entry into premises. (U)

They asked if I had ever participated in any entries and I advised them that in 1962 and 1964 I had been involved in such entries into motel rooms of agents of foreign powers and as part of a surveillance during the entry into the apartment of an agent of a foreign power. (U)

They asked whether during my assignment to the Espionage Section at FBIHQ from 1969 until 1974, it was my understanding that surreptitious entries could be approved in a major espionage case. I told them that it was my understanding at the time that were the case of major significance use of such a technique could be considered.

- 2 -

~~CONFIDENTIAL~~

Greenberg/Gray-7349

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-05-2009 BY 65179 dmh/baw/sbs

X

9/11/80

TO : DIRECTOR, FBI (100-439048)((ATTN: JOE TIERNEY)

Smc FROM: SAC, CHICAGO (100-40903)(C)(SQUAD 11)

WEATHER UNDERGROUND ORGANIZATION (WUO)
DOMESTIC SECURITY
OO: CHICAGO

Mark W. Felt

Re FBIHQ telcall from SA Joe Tierney to Chicago
9/11/80.

Enclosed for FBIHQ are the following two tapes per
the request of SA Tierney:

1. Original of a tape recording of the voice of
Bernardine Rae Dohrn delivering a press conference at the
Civic Center at Washington and Dearborn, Chicago, 12/22/69
at noon, recorded by SA [REDACTED].

2. Copy of an original tape recording of the voice
of Dohrn delivering a press conference at 701 West Armitage
Street, Chicago 9/12/69. This recording emanated from WGN-TV
in Chicago and the original was last known to be in the custody
of [REDACTED] of that station.

It is noted that in retelcall SA Tierney also
requested the tape supposedly depicting [REDACTED] voice that was
delivered at the University of California at Berkeley on
5/27/70. Chicago cannot locate this tape recording and
believes that it is in the possession of the FBI Laboratory.
Chicago sent same to the Laboratory by airtel 6/3/70 and is
unable to locate any record of it having been returned.

No copies of the above two tape recordings have been
retained by Chicago.

(2) - Bureau (Enc. 2)
1 - Chicago
WED:meb
(3)

NOT RECORDED
46 NOV 5 1980

Greenberg/Gray-7350

59 NOV 13 1980

ORIGINAL FILED IN 100-439048-3871

FEDERAL BUREAU OF INVESTIGATION
FOIPA
DELETED PAGE INFORMATION SHEET

No Duplication Fees are charged for Deleted Page Information Sheet(s).

Total Deleted Page(s) ~ 52

Page 7 ~ b1

Page 9 ~ b1

Page 10 ~ b1

Page 11 ~ b1

Page 29 ~ Duplicate

Page 30 ~ Duplicate

Page 31 ~ Duplicate

Page 32 ~ Duplicate

Page 33 ~ Duplicate

Page 34 ~ Duplicate

Page 35 ~ Duplicate

Page 36 ~ Duplicate

Page 37 ~ Duplicate

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